

10 NOVEMBER 1947

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of
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I N D E X
of
EXHIBITS

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487	3413		Affidavit of NAKAMURA, Kotaro		32803
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1759	3415		Affidavit of SOGO, Shinji		32808
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1922	3417		Certificate of non-avail- ability, dated 24 July 1947 of certain docu- ments		32814
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Of
EXHIBITS
(cont'd)

<u>Doc.</u>	<u>Def.</u>	<u>Pros.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidenc</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>			
2641	3419		Certificate dated 11 September 1947 received from the Central Intelligence Group, Washington with two letters attached		32816
2739	3420		Affidavit of TAKEDA, Hisashi		32820
2774	3420-A		Certificate of Appointments of TAKEDA, Hisashi		32820
1641	3421		The Manchurian Incident - The Outlines and Progress of the Military Operations of the Kwantung Army from 19 September 1931 to February 1932		32824
1838	3421-A		Excerpt therefrom - The Relations of the Despatch and Withdrawal of the Army and Navy Forces		32824
	3422		Certificate of Authenticity of 16 Telegrams (Defense Documents 2048-A to 2048-P)		32832

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I N D E X

of

EXHIBITS

(cont'd)

<u>Doc.</u>	<u>Def.</u>	<u>Pros.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>			
2048-A to 2048-P incl.	3422-A to 3422-P incl.		Series of 16 telegrams between the War Minister or his Vice- Minister and the Com- mander of the Kwantung Army or his Chief of Staff		32832
2096	3423		Letter from the Chief of General Staff to the War Minister dated 22 September 1931 (Excerpt from Exhibit No. 3038-G)		32834
	3424		September and October issue, 1931 of "The Japan Chronicle"	32837	
1938	3425		Excerpt from the Man- churian-Secret-Great- Diary (MAN-MITSU-DAI- NIKKI) Vol. 1, 1931 - Instruction given to Major-General HASHIMOTO, Toranosuke by the War Minister on 24 September 1931		3284
			<u>NOON RECESS</u>		3284
	3426		Volume entitled "Collection of Documents relating to the League of Nations, Vol. III"	32851	

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I N D E X

of
EXHIBITS
(cont'd)

<u>Doc.</u>	<u>Def.</u>	<u>Pros.</u>	<u>Description</u>	<u>For Ident.</u>	<u>In Evidence</u>
<u>No.</u>	<u>No.</u>	<u>No.</u>			
	3427		Volume entitled "Observations of the Japanese Government on the Report of the Commission of Inquiry"	32851	
1937	3428		Telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army dated 1 October 1931 (Excerpt from Exhibit No. 3038-G)	32860	
1965	3429		Telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army dated 11 November 1931 (Excerpt from Exhibit No. 3038-G)	32861	
2047	3430		Affidavit of KATAKURA, Tadashi	32868	
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2853	3432		Certificate of Illness of Witness SHIDEHARA, Kijuro	32881	
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Monday, 10 November 1947

INTERNATIONAL MILITARY TRIBUNAL
FOR THE FAR EAST
Court House of the Tribunal
War Ministry Building
Tokyo, Japan

8 The Tribunal met, pursuant to adjournment,
9 at 0930.

II Appearances:

For the Tribunal, all Members sitting, with
the exception of: HONORABLE JUSTICE SIR WILLIAM F.
WEBB, Member from the Commonwealth of Australia and
HONORABLE JUSTICE R. B. PAL, Member from India, not
sitting from 0930 to 1600.

17 For the Prosecution Section, same as before.

For the Defense Section, same as before.

19 | - - -

(English to Japanese and Japanese to English interpretation was made by the Language Section, IMTFE.)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now in session.

Military
Tribunal
for the
Far East
is now in session.
ACTING PRESIDENT: First, I will ask the
Clerk of the Court to read paragraph 3 of General
Orders No. 18, General Headquarters, Supreme
Commander for the Allied Powers.

CLERK OF THE COURT: (Reading):

"GENERAL HEADQUARTERS

"SUPREME COMMANDER FOR THE ALLIED POWERS

"APO 500

"7 November 1947

"GENERAL ORDERS No. 18

"APPOINTMENT OF ACTING PRESIDENT OF THE
INTERNATIONAL MILITARY TRIBUNAL FOR THE FAR EAST

"Paragraph 3

"Under the provisions of Section I, Charter
of the International Military Tribunal for the Far
East, published in General Orders 20, General Head-
quarters, Supreme Commander for the Allied Powers,
26 April 1946, Major General Myron C. Cramer, United
States Army, is appointed Acting President of the
International Military Tribunal for the Far East
during the absence of the President, the Honorable
Sir William Flood Webb (Commonwealth of Australia).

"AG 334 (7 November 47) SGS

"BY COMMAND OF GENERAL MacARTHUR

1 "PAUL J. MUELLER, Major General, General
2 Staff Corps, Chief of Staff

3 "OFFICIAL:

4 "(S) Clarence E. Sheen
5 "For: R.M. LEVY, Colonel AGD, Adjutant
6 General."

7 ACTING PRESIDENT: All the accused are
8 present except MATSUI who is represented by counsel.
9 We have a certificate from the prison surgeon at
10 Sugamo, certifying that he is ill and unable to
11 attend the trial today. This certificate will be
12 recorded and filed.

14 MR. MATTICE: If the Tribunal please, we
15 have concluded the individual defense of the accused
16 MATSUI, with the exception of his testimony, reserving
17 the right to give his testimony when he is able to
18 attend.

19 ACTING PRESIDENT: Mr. Blakeney.

20 MR. BLAKENEY: If the Tribunal please, the
21 defense now responds to the motion of the prosecution,
22 argued on 6 November, that the Tribunal reconsider and
23 reverse its ruling of 17 June ordering the production
24 by the prosecution of certain witnesses for cross-
25 examination, failing which their testimony was to be

1 disregarded. The order of 17 June was one entered
2 after an argument extending to forty pages of the
3 record and full and careful consideration by the
4 Tribunal. That the order in question was no hasty
5 or ill-considered one is apparent from the fact that
6 the motion upon which it was based had been under
7 consideration by the Tribunal for eight days after
8 the full argument, and over eight months from the
9 time that it was first moved. Yet despite the
10 Tribunal's repeated admonitions that a matter once
11 determined will not be reconsidered, the prosecutor
12 has now ventured to move the reopening of as
13 exhaustively-argued and as carefully-considered a
14 ruling as has ever been entered in the course of this
15 trial. He alleged, as of course he must to justify
16 the effrontery of this proceeding, that "the situation
17 is now changed", and proceeds to "call to the Tribunal's
18 attention three points which were not considered at
19 that time" -- not considered, that is, by the
20 prosecution, who overlooked presenting them then. The
21 question has already been argued ad nauseum, and I
22 shall not stop to review its history, but shall go
23 directly to examination of this changed situation
24 and these three points.

The first of these "changed conditions" is

1 that, since, as it is alleged, the defense has,
2 subsequently to the introduction of these affidavits
3 of absent witnesses by the prosecution, itself
4 tendered the affidavit of a witness, Woodhead, who
5 was not made available for cross-examination, "a
6 contrary rule has now been established by the Tribunal."
7 This argument is so casuistic that it is impossible
8 to believe it made in good faith. In the first place,
9 the record cited by the prosecutor in this branch
10 of his argument -- page 28,068 -- not only does
11 not support but disproves his statement that the
12 same objection was raised in that case by the
13 prosecution. The defense position from beginning to
14 end of this matter has been that of requesting the
15 Tribunal to order production of the absent witness,
16 or disregard his testimony. The prosecution neither
17 at the time of the introduction of Woodhead's affidavit
18 nor at any other time made any sort of demand for his
19 production. The complete argument made at that time
20 by this same prosecutor was: "The second objection is
21 that the witness is not available for cross-examination
22 even if it were permissible to introduce this affidavit."
23 The prosecutor knows the meaning of words; he knows
24 the difference between a demand for production and
25 an objection because of non-production. Had he wanted

the witness produced, he would have demanded his attendance; had he felt his point to have validity, he would have argued it, and pressed it, and the Tribunal would have told him, as it did tell him on another such occasion when the attendance of the witness was demanded, that the application would be considered as was that of the defense. The prosecutor says that if this question had arisen after that of Woodhead, "the Tribunal would have applied the same rule and would have admitted the Russian affidavits in the same manner that they admitted the Woodhead affidavit." Yes. This is precisely what the Tribunal did: It admitted the Russian affidavits, every one of them, in the same manner that it did the Woodhead affidavit -- that is, on the condition that if the attendance of the affiant was requested, and the Tribunal considered the request justified, his attendance would be ordered. But the prosecutor made no such request as the defense made. If, however, the fact were as he states it to be, there would still be no smallest part of an analogy between that case and this. He says, "no proper and material distinction in principle can be made" between the two. The prosecutor recognizes no distinction in principle between Woodhead, a free man, and these

1 prisoners of war. But, waiving that, does he
2 seriously contend that we, the defense, are to be
3 told that unless we produce witnesses from overseas
4 our failure to do so shall be construed as assent
5 to his not producing his witnesses? Can he have
6 forgot for the moment that he is a government --
7 rather, a coalition of eleven governments, of the
8 great nations of the earth? The prosecution has but
9 to command, and their witnesses appear. The prosecution
10 can bring Woodhead himself, if they desire, without
11 asking any leave of court or defense. But what shall
12 the defense do? Shall I foot the bill for the witness'
13 passage? And shall I compel the British Government
14 to grant the witness his passport and vise, and the
15 Supreme Commander to admit him to Japan? How can
16 the prosecutor stand before this Tribunal and say
17 that defense and prosecution are on an equal footing
18 in regard to production of witnesses, and not blush
19 with shame to say it?

20 The second "changed condition" is that "it
21 has been demonstrated that the prosecution has done all
22 that it can to present these four deponents for cross-
23 examination". The prosecution has made a variety of
24 specious excuses; it has applied for extensions of
25 time within which to bring the witnesses; it has done

1 everything possible, perhaps short of presenting
2 the witnesses. But where is the demonstration that
3 the prosecution "has done all that it can"? They
4 brought six; why not another three or six? The
5 reasons alleged for inability to call them --
6 inability of the government of which they are prisoners
7 of war to produce them on its own behalf in this
8 trial -- are of the most unconvincing possible
9 character. "Security" is frequently mentioned. How
10 can the security of a state be menaced by anything
11 which might be said by a former enemy soldier,
12 prisoner of war in its control? If the witnesses
13 appeared for cross-examination, it would be cross-
14 examination on the matter in these affidavits, which
15 considerations of security did not prevent the
16 prosecution from publishing to the Tribunal; what
17 claim of "security", then, could be advanced in
18 connection with their testimony under cross-examination?
19 The prosecutor, conceding that this is the most
20 important of war-crimes trials, yet contends that
21 trials going on in the U S S R cannot be conducted
22 without the witnesses. Why cannot their affidavits
23 be used there, the witnesses testifying in absentia
24 there while they testify corporeally here? As the
25 prosecutor admits, the cases in which it is alleged

1 that they are to testify "are being investigated at
2 present, or haven't yet been investigated"; what
3 then becomes of his excuse for not having produced
4 the witnesses during the four and a half months since
5 the Tribunal's order to do so? The Soviet authorities
6 have had over two years to ascertain what testimony
7 these witnesses can give. So far as concerns the
8 prosecution's having done all that it can to produce
9 the witnesses, I submit that the record of this
10 Tribunal is utterly barren of any suggestion, not
11 only of diligence, but even of the slightest pretence
12 of an attempt to do so. It shows, if it shows
13 anything, only that the right hand of the U S S R
14 knows very well what the left hand proposes doing, and
15 vetoes it.

16 Third "changed condition". That a "vituper-
17 ative attack" was made against "one of the participating
18 nations, the substance of which was that duress had
19 been used in obtaining the affidavits." The employ-
20 ment by prosecutors of such terms as "vituperative"
21 to characterize statements of unpalatable facts has
22 become fairly common, and can be passed over. As
23 for the charge of duress, no such charge was made
24 by me -- for I am the counsel referred to. What I
25 did was to speak of the fact that these witnesses

1 were prisoners of war. During the late war I had
2 occasion to inspect many thousands of prisoners of
3 war held by my country and its allies, and I can
4 affirm that it was not uncommon to find them kept
5 under armed guard, or, in a familiar figure of speech,
6 with a gun in the back. Since, however, the prosecutor
7 has seen fit to go beyond the bounds of legal argument,
8 and to discuss as a question of fact whether duress
9 has been proved -- he says that "the cross-examination
10 of the witnesses just produced has demonstrated the
11 emptiness of such a charge" -- I shall take the
12 opportunity of meeting him on the facts. The testimony
13 of one of the witnesses just produced was that he
14 has been held as a prisoner since 27 September 1947;
15 that he had never been charged with any crime or offence
16 against the U S S R; that he was thrown into prison
17 without being told of any reason therefor, and was
18 held there for something over four months; that he
19 learned that he was to be imprisoned from a lieutenant-
20 general of the NKVD, or OGPU; and that during the
21 time of his imprisonment his affidavit for use in this
22 trial was prepared. These facts are more significant
23 than the witness' answer to the question "Did you
24 testify without any duress?" In the case of all
25 these witnesses, in general, we can wonder whether

1 duress may not be inferred from the fact that with
2 the lapse of near twenty-seven months since the
3 Japanese surrender they yet remain prisoners of war --
4 under armed guard.

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1 The last "changed condition" is that whereas
2 much of the evidence given by these absent affiants
3 relates to the Kantokuen, the defense has now had a
4 fair opportunity to cross-examine -- to cross-examine
5 other witnesses, that is -- and that "further cross-
6 examination on that subject would be needlessly
7 repetitive." If the cross-examination would be need-
8 lessly repetitive, so must be the testimony in chief.
9 Why, then, is the admission of the evidence insisted
10 upon? Or is this but the prosecutor's assurance that
11 the cross-examination will fail and that his evidence
12 should be accepted at face value? As the President
13 lately reminded us, "There are no short cuts to
14 proper judicial determination," and, "Cross-examination
15 still remains the principal means of testing credit."
16 It is a means which, I make so bold as to submit, cannot
17 be replaced by a prosecutor's assertion that it is un-
18 necessary; nor, we have the vanity to believe, has it
19 to date failed. I will, indeed, gladly agree with
20 the prosecution that cross-examination of these re-
21 maining witnesses would be productive of the same
22 result as in the past. However, continues the
23 prosecutor, so far as these affidavits deal with
24 other subjects than the Kantokuen, "The evidence is
25 to a great extent cumulative," which is a reason for

1 not cross-examining the affiants. This can have only
2 two meanings. One, that the evidence is worthless,
3 in which event it should not be imposed upon the
4 Tribunal. The other, that the prosecution's view of
5 the case has been accepted by the Tribunal; that the
6 decision has been made, wherefore no further evidence
7 is required. This is the only meaning of the term
8 "cumulative" that I understand, and this was the ex-
9 planation of it given by the President of the Tri-
10 bunal to the Soviet prosecutor the last time that
11 this suggestion was made: "If we tell the defense
12 we have heard enough, we are deciding their way."

13 We come now to the three points not prev-
14 iously argued, which are alleged to dispose of the
15 defense request for leave to reopen the general
16 Soviet phase. But before dealing with them, let me
17 mention again, in order to prevent any muddling of
18 the record on that point, that the closing of the
19 defense's Soviet phase was conditional, subject to
20 later introduction of evidence relating to various
21 matters reserved. These matters are not, I take it,
22 now in question, but it is a matter of reopening the
23 phase for the introduction of evidence deemed neces-
24 sary as a result of the production of some witnesses
25 for cross-examination and disclosure that others

would not be produced.

1 The first of the prosecutor's points "not
2 hitherto argued" was, like the rest, available and
3 known to the prosecution at the time of the original
4 argument of this question. This is the fantastic
5 contention that, by reading into evidence, prior to
6 the rendition of decision on their eventual dis-
7 position, certain parts of the affidavits now under
8 consideration, the defense "adopted" them, whatever
9 that may be, and "abandoned or waived" its objection
10 to their reception. Let us examine this mumbo-jumbo
11 carefully. The affidavits were originally received
12 in evidence, subject to later decision of the defense
13 motion to strike. They were then in evidence; the
14 whole of them, not just the parts read into the
15 record. The defense then, in its Soviet phase, read
16 into the record certain unread parts thereof, this
17 being what the prosecutor refers to as "introducing
18 into evidence," though the distinction is one of
19 which he must be aware. But before ever any excerpt
20 from such an affidavit was read by the defense, this
21 statement of intention was made: "Until such time
22 as the Tribunal shall have given its ruling on the
23 request for the production of absent witnesses of
24 the prosecution's Soviet phase, I shall use their

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2 hitherto argued" was, like the rest, available and
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4 argument of this question. This is the fantastic
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18 into evidence," though the distinction is one of
19 which he must be aware. But before ever any excerpt
20 from such an affidavit was read by the defense, this
21 statement of intention was made: "Until such time
22 as the Tribunal shall have given its ruling on the
23 request for the production of absent witnesses of
24 the prosecution's Soviet phase, I shall use their

affidavits so far as they are of service to the
1 defense. If, finally, it shall be determined to
2 reject them as evidence, of course the parts so used
3 by the defense will as well be stricken." Record
4 page 23,182. This statement, it is now alleged, was
5 an endeavor "to place the Tribunal on terms," terms
6 which, it is pointed out, were not acceded to by the
7 Tribunal. There was no objection by the prosecution
8 at the time, nor did the Tribunal indicate that it
9 considered that it was being "placed on terms," which
10 of course it was not. What choice could the defense
11 have made except to make what use it could of evidence,
12 the ultimate disposition of which was as yet undeterm-
13 ined, but was under consideration by the Tribunal?
14 Such a proceeding appears logical and expeditious in
15 dispensing with some amount of other evidence,
16 certainly is not unprecedented, and must in any view
17 be compulsory upon conscientious counsel; whereas
18 the most that can be said of the objection to it, now
19 raised, is that it is technical in the extreme. By
20 the way, this argument is applied by its author to
21 what he refers to as "three of the four affidavits
22 with which we are now concerned." If it did apply
23 to the three, and not to the one, the defense request
24 for leave to reopen would not be affected by it.
25

1 Parenthetically, it should be noted that the affi-
2 davits in question are not four; they are five, even
3 if we concede that the case of the sixth affiant,
4 KITA, which I shall come to presently, is exceptional.
5 For what reason I do not undertake to surmise, the
6 prosecutor ignores wholly the case of one of his
7 witnesses, AKIKUSA Shun, whose status is identical
8 with that of others whom he treats of.

9 "The defense," we are told, "had no right to
10 assume that any affidavit would be excluded by reason
11 of non-production of the deponent," meaning "affiant,"
12 "and if the defense had testimony to meet these
13 affidavits," it should have been presented before.
14 How could such a compulsion be conceived to exist?
15 The defense thought, when it moved the production of
16 these witnesses or the rejection of their testimony,
17 that every canon of justice or fairness compelled
18 that procedure; it thinks so yet. That the defense
19 was correct in that belief is evident from the
20 decision of the Tribunal ordering the motion granted.
21 I say that we felt so and were proved correct. But,
22 correct or not, why should the defense have inundated
23 the Tribunal with evidence in answer to these affi-
24 davits, evidence which might be proved wholly un-
25 necessary by the Tribunal's decision whether to

1 accept or reject? The prosecutor's reasoning comes
2 to this: That the evidence was once accepted; that
3 notwithstanding the defense urged, and the Tribunal
4 later decided, that justice required production of
5 the witnesses, the defense should have anticipated
6 that long afterward the Tribunal would, merely be-
7 cause a prosecutor demanded it, rescind its order
8 which had already been fully executed and should
9 have made its preparations accordingly.

10 And finally, on this point, the prosecutor
11 is aghast at the proposed "innovation" of permitting
12 the defense now to substitute new evidence for that
13 stricken by the Tribunal's order. Where is the in-
14 novation? The Soviet prosecution has within the
15 week before the prosecutor spoke introduced new evi-
16 dence, over a year after the close of its case, in
17 the form of additional affidavits of the very wit-
18 nesses produced for cross-examination, with the
19 result of precisely the retrial of the Soviet phase
20 which the prosecutor denominates unjustified. Yet
21 the prosecutor's suggestion is that the defense should
22 be denied leave to reopen to meet even this evidence,
23 as well as matters arising out of the cross-
24 examination of such witnesses as have been produced.
25

The second point not "hitherto argued"

concerns the Charter, which existed in its present
1 form at the time of the original argument of this
2 question on 9 June 1947. The defense have urged
3 times without number that Article 13-A of the Charter
4 contemplated the admission of some type of document
5 offered by us, to have it nevertheless rejected by
6 the Tribunal. The prosecutor's Olympian assurance
7 that these sworn statements of his witnesses have
8 probative value hardly establishes the fact, espe-
9 cially in the light of the Tribunal's decision that
10 in the absence of cross-examination they have none.
11 The Tribunal is not compelled to admit evidence un-
12 less it deems it to have probative value, and it is
13 compelled by a prosecutor's assertion to deem it to
14 have. Would such an affidavit as these, if offered
15 by the defense, be received at all?

As for the third point, the procedure at
17 Nuernberg, which trial concluded long before the
18 original argument on this question, does it not
19 suffice to say that the Tribunal has repeatedly
20 announced that it would not consider itself bound
21 by the procedure at Nuernberg and did not care even
22 to hear the procedure there suggested as persuasive?
23 This Tribunal has, after full and careful consider-
24 ation, come to its conclusion in this matter, a

1 conclusion consistent with justice and a fair trial
2 for the accused, and what other judges in other cir-
3 cumstances may have decided is of less than persuasive
4 effect.

5 I must point out one or two more matters in
6 answer to the prosecutor. I wish again to emphasize
7 that the order of the Tribunal of 17 June was that
8 the witnesses be produced within a time limited,
9 failing which their evidence would be disregarded.
10 The time, as extended, expired on 17 October, or
11 twenty days before this motion for reconsideration,
12 and the Tribunal's order was then by its terms
13 executed. It had become effective; there was nothing
14 further to be done. The witnesses had not been
15 produced, and their testimony was to be disregarded.
16 If this present application should prevail, there
17 would never be any certainty concerning the orders
18 of the Tribunal; for if they can be reopened twenty
19 days after becoming final, so they can six weeks or
20 a year. This order, by the way, had once before
21 become final, on 18 August, after which date only was
22 the application for extension of time filed.

23 The prosecutor mentions once or twice that
24 the affidavits of KUSABA and MIYAKE, both now de-
25 ceased, and of NOHARA, now in Germany, were admitted

by the Tribunal. He fails to mention that by the

1 order of 17 June they were ordered received de bene
2 esse. The term "de bene esse" is one very familiar
3 to American lawyers, but I venture to say that none
4 of us understands what it means in this context.
5 The only use known to us is not applicable here.
6 Whatever it means -- perhaps "for whatever it is
7 worth, if anything" would be a reasonable surmise --
8 it clearly imports something different from un-
9 conditional admission into evidence, and if the
10 affidavit of KITA were to be accepted at all, despite
11 the non-compliance with the order of the Tribunal,
12 it would doubtless be on the same terms.

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Furthermore, the case of the affiant TOMINAGA
is unique. His production was unequivocally ordered

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1 Furthermore, the case of the affiant TOMINAGA
2 is unique. His production was unequivocally ordered
3 by the Tribunal at the time of acceptance of his affi-
4 davit (record page 7,529). The representation at the
5 time was that he was sick and would be produced
6 immediately upon his recovery. As in the case of all
7 the other witnesses from this phase reported as ill,
8 no medical certificate was offered to the Tribunal
9 but only the secondary hearsay evidence of Soviet
10 authorities in Tokyo, with no specification of the
11 nature or gravity of the illness to enable the Tri-
12 bunal to judge of the validity of the excuse. The
13 unreliability of this type of evidence has been demon-
14 strated strikingly when one of the witnesses so re-
15 ported sick has testified before the Tribunal not a
16 fortnight since that he has never been sick since
17 becoming a prisoner of war. TOMINAGA, at all events,
18 was stated by the prosecution at the time his affi-
19 davit was tendered to be a most important witness, one
20 whose production was ardently desired by them. But
21 this was over a year ago, during which intervening
22 time has appeared neither witness nor medical certifi-
23 cate nor other explanation of his non-attendance.
24 Now it is alleged for the first time that it is
25 reasons of security which forbid his production here.

This long-continued flouting of the Tribunal's order
1 requires, in our submission, the disregarding of
2 Tominaga's testimony.

Finally, why this reluctance of the prosecuting nation to produce these witnesses? What do they fear as the result of their appearance in the witness box? Five now harmless citizens of a defeated nation, stripped of all rank in an army which has ceased to be, prisoners of war who will be returned to the land of their captivity -- what peril to the security of a great state lurks in the suggestion that they appear here? The very repetition of these efforts to escape compliance with the barest demands of a fair trial emphasizes the importance of the Tribunal's seeing them, hearing them, observing their appearance under cross-examination. In no other wise can it be possible to judge the worth, if any, of their testimony.

The defense submits that the Tribunal's order of 17 June as already effective should stand.

ACTING PRESIDENT: Mr. Tavenner.

MR. TAVENNER: If the Tribunal please, I do not desire to re-argue any point covered in my first argument, but permission is respectfully requested to answer an entirely new point raised by defense counsel which needs clarification.

1 The point deals with the whole erroneous con-
2 tention that the order of June 17 was a final decision
3 for rejection of affidavits as to which the deponents
4 were not produced for cross-examination. May I be
5 permitted to make a rebuttal reply to this new point?

6 ACTING PRESIDENT: Go ahead.

7 MR. TAVENNER: Certainly counsel, who at his
8 request was given from Thursday until today to prepare
9 his reply, must know and understand that the order of
10 June 17 was not final.

11 It is divided into two parts. The first part
12 orders the prosecution to produce for cross-examination
13 certain witnesses within a period of two months, or
14 within such longer period as may on cause shown be
15 approved by the Tribunal.

16 The second part is that, alternatively, that
17 is, if the deponents are not produced, the prosecution
18 shall give convincing reasons within the said period
19 as to why they are not able to produce the witnesses.

20 The language of this alternative provision of
21 the order is meaningless unless it means precisely what
22 it says, namely, that the prosecution may be heard on
23 the reasons why it is not able to produce certain wit-
24 nesses, and it is incomprehensible that counsel should
25 seriously contend otherwise.

1 The reasons why certain witnesses could not
2 be produced were explained first in the chambers
3 hearing of August 20, and were restated by Chief of
4 Counsel on October 16, the day before the witnesses
5 were to be produced. Mr. Furness, who, with Mr.
6 Blakeney, has been taking the lead in the defense
7 opposition to this matter, said, on October 16, that
8 he assumed, and I quote, "If the Court is considering
9 changing its order, it will hear arguments from the
10 defense with regard to it," the Tribunal having already
11 announced that it would consider the matter.

12 The position of the prosecution is that the
13 combined action of the prosecution, defense, and the
14 Tribunal told the running of the time element of the
15 order, and therefore the order did not become final.
16 If the explanation as to why the prosecution is not
17 able to produce the five, or I should say, six wit-
18 nesses is considered adequate, then, it is submitted,
19 the affidavit should be considered in evidence, and
20 the order of June 17 will have been fully complied
21 with. If the Tribunal concludes that convincing
22 reasons have not been given for the non-production of
23 the six witnesses, nevertheless, the prosecution respect-
24 fully submits, our Charter provisions and the Nuern-
25 berg rules should be held to govern. The prosecution

1 has not contended for any stronger rule than that
2 adopted at Nuernberg.

3 I desire to state that the name AKIKUSA, Shun
4 was not given me at the time the original argument was
5 prepared, and therefore his name was not included
6 in my first discussion. His name should have been
7 included among the list of affidavits. What has been
8 said applies to him equally as to the others.

9 I think I should add, if the Tribunal please,
10 that to the extent that my able friend deserted a
11 reasoned argument and resorted to a plethora of abuse
12 against prosecution counsel and against one of the
13 participating nations his remarks and the manner in
14 which he made them, although resented, should be
15 passed over and not dignified by further answer.

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14 which he made them, although resented, should be
15 passed over and not dignified by further answer.

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1 MR. BLAKENEY: May I have leave of the Tri-
2 bunal to say a word in answer to this new question
3 raised?

4 ACTING PRESIDENT: I do not think there is any-
5 thing more that need be discussed on that; I think we
6 have gone far enough.

7 The Tribunal will take the matter under con-
8 sideration.

9 Mr. Brooks.

10 MR. BROOKS: Mr. President and Members of the
11 Tribunal: On the order of proof I understand that the
12 prosecution does not desire to cross-examine the wit-
13 nesses at No. 1, 3, 8, 23 and 30 of the order of proof.

14 ACTING PRESIDENT: Just a little slower, will
15 you please?

16 MR. BROOKS: No. 1, 3, 8, 23 and 30 of the
17 order of proof. Also, the names of these witnesses,
18 NAKAMURA, SOGO, TAKEDA, KATAKURA, MITARAI. The defense
19 documents covered are No. 487, 1759, 2739, 2047 and
20 2013. Of course the prosecution does not waive the
21 right to make proper objections to the offering of the
22 affidavits.

23 I also wish to state that since the taking of
24 the affidavit the first witness, NAKAMURA, has died,
25 and I will present a death certificate.

1 For the benefit of the marshal, I wish to state
2 that I will be required to call the witness at No. 8 and
3 23 to identify certain documents and answer a few
4 additional questions for the defense.

5 Now, on behalf of MINAMI, Jiro, we will proceed
6 directly with the presentation of evidence, without any
7 opening statement.

8 First of all, we offer into evidence defense
9 document 487, the affidavit of NAKAMURA, Kotaro, to-
10 gether with defense document 2674, his death certificate.
11 General NAKAMURA executed the affidavit in December last,
12 but to our regret died in August this year.

13 ACTING PRESIDENT: Colonel Woolworth.

14 MR. WOOLWORTH: If the Tribunal please, the
15 prosecution objects to the introduction of the first
16 document, No. 487, on the ground that the deponent is not
17 present for cross-examination, and furthermore, that it
18 does not appear that the affidavit was executed in
19 anticipation of death.

20 MR. BROOKS: If the Tribunal please, these
21 affidavits that have been taken for a long period of
22 time, since 1946, were taken in anticipation that some-
23 thing of this nature might happen. It is a customary
24 practice, one that I have followed for years, of taking
25 affidavits of every witness I intend to use, life being

so uncertain.

ACTING PRESIDENT: The objection is overruled.

1 The Tribunal will take into consideration the fact that
2 this witness has not been cross-examined.

3 MR. WOOLWORTH: If the Tribunal please, the
4 prosecution objects to paragraph 3 of defense document
5 487 on the ground that it is purely argumentative, and
6 to that part of paragraph 4 on page 5, beginning at the
7 word "Moreover" on the seventh line on page 5, to the
8 end of the affidavit, on the same ground.

9 MR. BROOKS: If the Tribunal please, this
10 affidavit by the Chief of the Personnel Bureau of the
11 War Ministry, working under War Minister MINAMI,
12 describes facts which will be corroborated by the evi-
13 dence to be produced hereafter. In view of the allegation
14 of the prosecution that MINAMI was opposed to the
15 reduction of armament and intended to increase troops
16 in Korea, it is necessary for us to show the financial
17 situation of the army which was dealt with by MINAMI
18 and we submit that General NAKAMURA's affidavit should
19 be admitted as relevant material in these issues, and
20 that this matter in paragraph 3 and the later part is
21 not argumentative, that is, about the statements that
22 have previously been raised in MINAMI's own case earlier,
23 in the general phase.

1 The retrenchment policy has been discussed
about the movement in the latter part on page 5, the
latter part of paragraph 4, and it was a matter with
which MINAMI was greatly concerned.

5 As to the address made under paragraph 3, as to
the current situation, this states about why certain
newspapers criticized the statement and it states some
8 of the reactions from the public in relation thereto,
9 which is relevant and material, taking into considera-
10 tion what the speech was about. Furthermore, it dis-
11 cusses the intrigue among the various political parties
12 and the grasping of one political party at an advantage
13 that it might twist and distort against another member
14 of a different political party, which will be brought
15 out more clearly in future evidence.
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1 ACTING PRESIDENT: By a majority vote the
2 objection is overruled and hereafter the prosecution
3 is requested to put in all its objections at one time
4 and not in parts.

5 Admitted on the usual terms.

6 CLERK OF THE COURT: Defense document 487
7 will receive exhibit No. 3413; defense document 2674
8 will receive exhibit No. 3413-A.

9 (Whereupon, the documents above
10 referred to were marked defense exhibits
11 No. 3413 and No. 3413-A, respectively, and
12 received in evidence.)

13 MR. BROOKS: I shall not read the death
14 certificate, exhibit 3413-A, but shall read the
15 affidavit, exhibit 3413, commencing with paragraph
16 2 on page 2:

17 "(2) In the 6th year of Showa I was working
18 under War Minister MINAMI as Chief of the Personnel
19 Bureau of the War Ministry. According to what I
20 learned from my position, the WAKATSUKI Cabinet at that
21 time was taking up a retrenchment policy as the
22 previous HAMAGUCHI Cabinet had done and was trying
23 to carry out administrative readjustment on a large
24 scale to reduce the budget. In the latter part of July,
25 Finance Minister INOUE presented a bill for the

revision of the Pension Law, in which he demanded a
1 reduction and amendment to military men's pensions.
2 This problem was carefully deliberated upon at the
3 War Ministry. Reduction of military men's salaries
4 was in the jurisdiction of the Military Affairs
5 Bureau and the Accounts Bureau and was not under my
6 jurisdiction, but I heard that it was reduced on a
7 scale similar to those of civil officials. Since
8 conditions were such, expenses necessary for the
9 renovation of various systems in the army and materials
10 of arms, etc., could not be supplied by government
11 finance. Accordingly, there was no alternative but
12 to curtail the expenses of the army itself and to use
13 sums for only the most urgent items, for example,
14 organizing an air force or mechanized unit by abolishing
15 the cavalry. On the other hand, the WAKATSUKI Cabinet
16 was organized after the close of the Diet session.
17 Therefore, although the reformation of the organization
18 and the equipment of the army had been planned
19 within the budget of the ex-Cabinet, the plan was
20 suspended, owing to this change of the Cabinet.
21 Japanese army equipment in those days was the same
22 as that in the early stages of the 1st World War.
23 Compared with those of other powers, it was very much
24 out of date and extremely inferior.

"(3) The Council of Division Commanders
1 was, as an established custom, convened every year
2 in Tokyo. They discussed on their business at the
3 War Ministry, the Headquarters of the Army General
4 Staff, and Inspectorate General of Military Education.
5 The Council of 1931 took place on the 4th of August
6 for the first time after MINAMI became the War
7 Minister. In his address made in the council, there
8 was a passage: 'As the current situation in Manchuria
9 and Mongolia is, to my regret, growing worse, those
10 who are engaged in military service should make in-
11 creasingly greater efforts in military education and
12 training, and to fulfil their duties.' Some newspapers
13 criticized this statement saying that it inspired
14 militarism or it meant political intervention by the
15 military circles. It must be only natural, however,
16 that the War Minister would demand Commanders of
17 Divisions to understand the oversea situation and to
18 wish to have them try their best in the education and
19 training of the army itself. Moreover, I could not
20 help but think that the reason why his address brought
21 about great reaction from the public was, after all,
22 due to a plot laid by a section of some political
23 party who, taking advantage of the instability of the
24 political situation in those days planned to overthrow

the government by tripping up a member of the Cabinet.

1 "(4) The news of an incident having broken
2 out at Liutiaokou in Mukden on the night of the 18th
3 of September 1931 and that Japanese and Chinese
4 forces began fighting one another, was brought to me
5 at 8 o'clock the following morning at the War Ministry.

6 "Now a vital element in combat is the
7 assignment of personnel, especially of officers.
8 Concerning this incident, however, the fact that I,
9 as Chief of the Personnel Bureau of the War Ministry,
10 did not know anything about the personnel beforehand,
11 that there was no preparation, and that the incident
12 was truly unexpected to me makes it quite obvious
13 that there was no previous plan. Moreover, as it was
14 just at a time when the army itself was taking a re-
15 trenchment policy, and that the organization and equip-
16 ment of the army was very imperfect, it was not likely
17 that Japan would take the initiative in bringing
18 about trouble. Subsequently, a gap took place between
19 the Cabinet's policy of 'Nonenlargement and local
20 settlement of the incident' and the movements of the
21 army situated there whose actions were governed by
22 strategy and as a result of which the War Ministry,
23 that is, the War Minister found himself in a very
24 difficult situation. This was because strategic

1 operations were under the control of the Military
2 Command of Chief of the General Staff, and outside
3 the authority of the War Minister.

4 "December 22, 1946.

5 "Deponent, NAKAMURA, Kotaro."

6 The defense offers next in evidence defense
7 document 286, a certificate issued by the First
8 Demobilization Bureau concerning the reduction of
9 officers' salary by virtue of Imperial Ordinance
10 No. 103 of May 27, 1931. As mentioned in paragraph 2
11 of NAKAMURA's affidavit just now read, this is
12 further evidence that War Minister MINAMI carried out
13 most faithfully a retrenchment policy as War Minister.

14 This is the part mentioned on page 2, the
15 bill for revision of the pension law, page 2 of
16 exhibit 3413.

17 I did not intend to read this exhibit,
18 if your Honor please. It is referred to in the
19 affidavit.

20 MR. WOOLWORTH: Prosecution objects to the
21 introduction of defense document 286 on the ground it
22 is irrelevant.
23

24 ACTING PRESIDENT: Overruled. Admitted on
25 the usual terms.

CLERK OF THE COURT: Defense document 286

will receive exhibit No. 3414.

(Whereupon, the document above referred to was marked defense exhibit No. 3414 and received in evidence.)

MR. BROOKS: I shall not read the exhibit but only point out the fact that the reduction ranged from 5.8 percent for first lieutenants to 12 percent for generals.

As to MINAMI's policy of financial retrenchment and armament reduction, I refer the Tribunal to the testimony of MINAMI, court record pages 19,776 and 19,777, KOISO's testimony at court record page 32,206, and further evidence thereon will be given by KODAMA, whom we have called as a witness.

At this time the defense offers defense document 1759 in evidence, the affidavit of the witness SOGO, Shinji.

ACTING PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 1759 will receive exhibit No. 3415.

(Whereupon, the document above referred to was marked defense exhibit No. 3415 and received in evidence.)

MR. BROOKS: I shall read the exhibit commencing with the last paragraph on page 1:

1 "I worked as a director in the South
2 Manchuria Railway Company for full four years from
3 July 1930 to July 1934. About May in 1931,
4 Mr. UCHIDA, Yasuya assumed the presidency of the
5 company succeeding Mr. SENGOKU, Mitsugu who had
6 retired from office on account of his illness. It
7 was the custom then that, when a presidential change
8 was made, the incoming President would invite separ-
9 ately every Minister and his staff, and, in return,
10 every Minister would invite the managing staff of the
11 company. The Asahi Newspaper report on July 1, 1931,
12 to the effect that War Minister MINAMI invited to his
13 official residence President UCHIDA and all the direc-
14 tors of the S.M.R. Company was nothing more than this
15 customary return invitation. These conventional
16 parties meant nothing but formalities."

17 This newspaper report referred to in the
18 last paragraph of the affidavit is exhibit 2202-A,
19 which was corrected at page 31,705 of the record. The
20 exhibit, 2202-A, appears at record page 15,753. I
21 also submit that this matter is also covered by
22 KOISO's testimony at court record pages 32,215-32,216.
23

24 Defense offers in evidence defense document
25 1966. It is an excerpt from exhibit 3038-A, Volume I
of the Volumes for 1931 of the Secret Great Diary of

1 the Japanese War Ministry, being one of the originals
2 recovered from Washington that has already been marked
3 for identification.

4 This excerpt is a report dated August 19,
5 1931, from the Commander of the Tokyo Military Police
6 to the War Minister referring to a lecture given by
7 the Commander to his subordinates. This lecture shows
8 the fact that MINAMI was sincerely resolved to suppress
9 any improper activities of young officers.

10 ACTING PRESIDENT: Admitted on the usual
11 terms.

12 CLERK OF THE COURT: Defense document 1966
13 will receive exhibit No. 3416.

14 (Whereupon, the document above
15 referred to was marked defense exhibit
16 No. 3416 and received in evidence.)

17 MR. BROOKS: I shall read exhibit 3416:
18 "Excerpt from the Secret Great Diary
19 (Mitsu-Dai-Nikki), Volume I, 1931. War Ministry.

20 "Ken-Hi-Sho No. 64.

21 "To Mr. Jiro MINAMI, War Minister

22 "August 19, 1931.

23 "Report re Address of Instruction

24 "I beg to report that an address of instruc-
25 tion, as per attached, was given by me on the policy

1 of guiding young officers in respect of their activities
2 vis-a-vis the present situation.

3 "Toyozo TOYAMA (seal), Commander of
4 Gendarmerie.

5 "(Secret) Instruction re Policy of Guiding
6 Young Officers in respect of their activities
7 vis-a-vis the Present Situation.

8 "!As you officers are well aware, meetings
9 and such like of young officers with the object of
10 study and discussion of the Manchurian-Mongolian
11 question and other problems of the present situation
12 tend to overstep the scope of study and turn into
13 concrete activities. Such activities are, however,
14 apt to be exploited politically by outsiders, and
15 it is to be feared that this might place the army in
16 an awkward position. Furthermore, it is a breach of
17 military discipline to make any proposition by forming
18 horizontal combinations, contrary to the military
19 system which provides authoritatively the relation
20 for grades of command and subordination. It will also
21 be a serious matter, should this tendency infect NCO's
22 and men, undermining the foundation of the military
23 constitution and inviting a thousand years' misfortune.

24 "!It seems to me that the reason, why the
25 said tendency absorbs the attention of young officers,

1 lies in the mistaken supposition that their
2 activities are lead by the higher authorities of the
3 army. Not only, however, is that not a fact, but the
4 War Minister is firmly resolved to prohibit all these
5 activities within the army. You must, therefore,
6 cooperate fully with your superiors in the guidance
7 of young officers so as not to have their futures
8 spoilt. You must further endeavor to stave off any
9 ill effects upon military discipline and prevent out-
10 siders from political exploitation (of the army).

11 "**Dated August 17, 1931.

12 "''Toyazo TOYAMA (seal), Commander of
13 Gendarmerie.''"

14 Language section, at this time I go to No. 6
15 on my order of proof.

16 ACTING PRESIDENT: We will recess for fifteen
17 minutes.

18 (Whereupon, at 1045, a recess was
19 taken until 1100, after which the proceedings
20 were resumed as follows:)

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MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: Captain Kraft.

LANGUAGE ARBITER (Captain Kraft): If the
Tribunal please, we submit the following language
correction: Reference exhibit 3409, page 7, second
line from bottom and record page 32,748, line 7: Delete
"in Nanking", substitute "at the front" and insert
"victorious" between "a" and "Now".

ACTING PRESIDENT: Captain Brooks.

MR. BROOKS: The defense at this time wishes to
make a short explanation concerning telegraphic corres-
pondence between the central authorities and the Kwan-
tung Army in 1931, to which many references have been
made in the course of this trial, but evidence as to the
contents thereof has been disallowed pending the search
for the original documents or the best evidence thereof
obtainable. After exhausting every possible means to
locate and obtain such original documents on both sides
of the Pacific, the situation to date is as follows:

Documents which would have been filed and
found at the Japanese General Staff were all burned
in August, 1945, as testified at court record page
27,047 by MIYAMA, Yozo, Chief of Archives Section of
the First Demobilization Bureau, and are, therefore,

not available.

1 Documents which would have been filed and found
2 at the Japanese War Ministry were either burned in
3 August, 1945, or delivered to the Occupation Army
4 in January, 1946, as testified by the same witness
5 (court record pages 27,045 to 27,046).

6 Documents thus handed over to the Occupation
7 Army, should be, to the best of our knowledge and belief,
8 located either at the Central Intelligence Group,
9 Washington (which took over documents formerly sent to
10 the Washington Document Center) or at G-2 of the General
11 Headquarters, Tokyo, held in the ATIS document section,
12 or at the Document Section of the International Prosecu-
13 tion Section, Tokyo.

15 We now present into evidence defense document
16 No. 1922, a certificate under date of July 24, 1947,
17 received from International Prosecution Document Division.

18 ACTING PRESIDENT: How about defense document
19 57?

20 MR. BROOKS: We omitted that, your Honor. That
21 was exhibit 57 by error. That is referred to later
22 under 21.

23 ACTING PRESIDENT: Admitted on the usual terms.

24 CLERK OF THE COURT: Defense document 1922 will
25 receive exhibit No. 3417.

(Whereupon, the document above referred was marked defense exhibit No. 3417 and received in evidence.)

MR. BROOKS: I shall read the exhibit, commencing with the word "subject", exhibit 3417:

"Subject: Certificate of Non-availability.

"In reply to the 'Order for the Production of
Certain Documents necessary to the Defense of the accused,
MINAMI, under the Charter' Court paper number 1040,
dated 24 June 1947, I certify that none of the said
documents are presently available in the Document
Division of the International Prosecution Section, Tokyo.

"YALE MAXON, Chief, Document Division, IPS."

14 The defense offers next in evidence defense
15 document No. 2524, a certificate under date of September
16 5, 1947, received from G-2, General Headquarters (ATIS
17 Document Section).

18 ACTING PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 2524 will
receive exhibit No. 3418.

24 MR. BROOKS: I shall read exhibit 2418, commen-
25 ing from the word "subject":

"Subject: Certificate of Non-Availability
1 "To: International Military Tribunal for the
2 Far East.
3 "1. Reference: Court Order No. 1040, Interna-

4 tional Military Tribunal for the Far East, Sitting in
5 Tokyo, Japan.
6 "2. This is to certify that none of the docu-

7 ments listed in reference Court Order are available in
8 G-2 FLC. A thorough search has been made covering all
9 potential sources.

10 "For the Assistant Chief of Staff, G-2:
11 "E. H. F. Svensson, Colonel, GSC, Director,
12 WDI Division."

13 The defense offers also in evidence defense
14 document No. 2641, a certificate under date of September
15 11, 1947, received from Central Intelligence Group,
16 Washington, together with two letters attached thereto.

17 ACTING PRESIDENT: Admitted on the usual terms.

18 CLERK OF THE COURT: Defense document 2641 will
19 receive exhibit No. 3419.

20 (Whereupon, the document above referred
21 to was marked defense exhibit No. 3419 and received
22 in evidence.)

23 MR. BROOKS: I read the exhibit from page 3
24 to the end:

"1st Indorsement.

1 "11 September 1947.

2 "Office of Collection and Dissemination, CIG.

3 "To: Civil Affairs Division, WDSS, War Department,
4 Washington 25, D.C.

5 "1 Search has been completed; and all available
6 documents requested under Tribunal's Order Paper
7 No. 963 have been transmitted to Civil Affairs Division.

8 "a. The following documents were transmitted
9 on 26 June 1947:

10 "'The Secret Great Diary (Mitsu Ici Nikki)',
11 1931. Volume 1.

12 "'The Secret Great Diary (Mitsu Ici Nikki)',
13 1931, Volume 6.

14 "'File of Permanent Records, non-classified',
15 1931. 1 Volume.

16 "'File of unclassified correspondence and records
17 dealing with Manchurian affairs', 1931, 2 volumes.
18 Volumes 1 and 3.

19 "'File of Classified correspondence and records
20 dealing with Manchurian Affairs', 1931. 1 Volume.

21 "The following documents were transmitted on
22 28 July 1947:

23 "'The Secret Great Diary', 1931. Volumes 2,
24 3, and 5.

"The following documents requested under
1 Tribunal's Order paper No. 964 were transmitted on
2 26 June 1947.

3 "File of miscellaneous correspondence and
4 records of our Ministry", 1940-1942, 1 bundle.

5 "3. The documents listed above comprise all of
6 the documents this agency can furnish in response to the
7 cited Papers."

8 The volumes just referred to in this certificate
9 and amounting to a total of ten volumes, have been
10 already introduced to the Tribunal for identification
11 and marked as exhibits 3038A to 3038J. Unfortunately,
12 these volumes so recovered out of the so-called "Great
13 Diary" series of volumes do not contain the telegrams
14 required by the Tribunal's order, since the volumes
15 for certain months relative to MINAMI's time in office
16 as our Minister in 1931 have not been sent and some of
17 those sent are of a different series of volumes. At
18 least sixteen volumes, if not more, are short of the
19 number requested under the Tribunal's order.

21 In spite of this disadvantage, however, the
22 defense has found several secondary proofs in these
23 documents marked exhibit 3038A to 3038J which will
24 corroborate our contention with regard to the contents
25 of the original telegraphic correspondence in question.

1 We also have other secondary evidence thereof.

2 Now, according to Article 13, c (5) of the
3 Charter, "a copy of a document or other secondary
4 evidence of its contents may be admitted, if the original
5 is not immediately available". Under the circumstances
6 above mentioned, we desire to present secondary
7 evidence by documents and witnesses in order to prove
8 the contents of certain original telegrams relevant to
9 HIRAKI's case.

10 The defense will call TAKID., Hisashi, a
11 former lieutenant general, as the first witness for
12 the identification of certain telegraphic copies of
13 the aforesaid original telegrams.

14 MARSHALL OF THE COURT: Mr. President, the
15 witness T.KEDA is in court. He has previously testi-
16 fied before this Tribunal.

17 ACTING PRESIDENT: You are reminded that you
18 are still under your former oath.

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TAKEDA

DIRECT

32,820

1 HISASHI TAKEDA, recalled as a witness
2 on behalf of the defense, having been previously
3 sworn, testified through Japanese interpreters
4 as follows:

5 DIRECT EXAMINATION

6 BY MR. BROOKS:

7 Q State your name and address, please.

8 A My name is TAKEDA, Hisashi. My address,
9 Ine-machi, Yomi-in-a-gun, Nagano Prefecture.

10 MR. BROOKS: I request that defense document
11 2739 be shown to the witness.

12 (Whereupon, a document was handed to
13 the witness.)

14 Q Is this your affidavit?

15 A Yes.

16 Q Are the contents thereof true and correct?

17 A Yes.

18 MR. BROOKS: Defense document 2739 is offered
19 in evidence, and I offer 2774 of note No. 10 here also.

20 ACTING PRESIDENT: Admitted on the usual terms.

21 CLERK OF THE COURT: Defense document 2739 will
22 receive exhibit No. 3420. Defense document 2774 will
23 receive exhibit No. 3420A.

24 (Whereupon, defense document No. 2739
25 was marked defense exhibit No. 3420 and received

TAKEDA

DIRECT

32,821

1 in evidence; defense document No. 2774 being
2 marked defense exhibit No. 3420A and received
3 in evidence.)

4 MR. BROOKS: Language Section, I will go to
5 note No. 10 at this time.

6 THE MONITOR: Thank you, Mr. Brooks.

7 MR. BROOKS: For the purpose of showing that
8 the witness was officially appointed as member of the
9 committee for compilation of a history of the Manchur-
10 ian Incident, I have offered in evidence defense
11 document No. 2774, a certificate issued by the 1st
12 Demobilization Bureau. I shall read the exhibit.

13 ACTING PRESIDENT: I haven't got it yet.

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TAKEDA

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1 in evidence; defense document No. 2774 being
2 marked defense exhibit No. 34204 and received
3 in evidence.)

4 MR. BROOKS: Language Section, I will go to
5 note No. 10 at this time.

6 THE MONITOR: Thank you, Mr. Brooks.

7 MR. BROOKS: For the purpose of showing that
8 the witness was officially appointed as member of the
9 committee for compilation of a history of the Manchur-
10 ian Incident, I have offered in evidence defense
11 document No. 2774, a certificate issued by the 1st
12 Demobilization Bureau. I shall read the exhibit.

13 ACTING PRESIDENT: I haven't got it yet.

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TAKEDA

DIRECT

32,822

1 Mr. BROOKS: That is 3420-A, General. It is
2 No. 10 in order.

3 I now read exhibit 3420-A:

4 "Certificate.

5 "TAKEDA, Hisashi.

6 "Date of birth: April 16, 1894.

7 "Place of residence: Ina-machi, Kami-ina-gun,
8 Nagano Prefecture.

9 "It is hereby certified that the above-named
10 was appointed as member of the General Staff and con-
11 currently member of the Committee for Compilation of
12 History of the Manchurian Incident on August 1, 1933,
13 and that he was appointed as instructor of the Army
14 Infantry School and concurrently member of the Research
15 Department of the said school and thereby relieved, on
16 March 1, 1938, from the membership of the Committee
17 for Compilation of History of the Manchurian Incident.
18

19 "dated October 21, 1947

20 "MIYAMA, Yozo (seal) Chief of the Archives
21 Section, First Demobilization Bureau."

22 I shall now read paragraph 2 of exhibit 3420
23 to the end of the paragraph. That is No. 8, Language
24 Section, 2739, exhibit 3420.

25 "From December 1930 to April 1932 I was a
staff officer of the Kwantung Army and well acquainted

TAKEDA

DIRECT

32,823

1 with telegraphic correspondence of confidential nature
2 between the Kwantung Army and the central army author-
3 ities at that time.

4 "After the outbreak of the Manchurian Incident,
5 a document entitled 'The Manchurian Incident: The
6 Relations of the Despatch and Withdrawal of the Army
7 and Navy Forces (Summary and Particulars of Operations
8 of the Kwantung Army)' was prepared by the Kwantung
9 Army Headquarters on the basis of detailed reports on
10 fightings, which were drafted by me from time to time.
11 The document was distributed in March 1932 for the
12 information of persons interested. I can identify
13 the so-called IPS document #1641 (a copy consisting
14 of 25 pages in Japanese) as an exact reproduction of a
15 part of the said document. I can also identify the so-
16 called defense document 1838 as an excerpt from IPS
17 document 1641 and, consequently, as an excerpt from the
18 said document.

19 "Further, I confirm that the contents of four
20 telegrams quoted in defense document 1838 are the same
21 as the original text of the telegrams received by the
22 Kwantung Army headquarters on September 18 and 19,
23 1931 from the Mukden Special Service Organ and the cen-
24 tral army authorities respectively."

I go now to note No. 9, Language Section.

TAKELA

DIRECT

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At this time I request IPS document No. 1641
1 (Japanese version), together with defense document
2 No. 1838, be shown to the witness.

3 (Whereupon, documents were handed to
4 the witness.)

5 MR. BROOKS: Are they the document and the
6 excerpt thereof referred to in paragraph 2 of your
7 affidavit just now read?

8 THE WITNESS: Yes.

9 MR. BROOKS: IPS document No. 1641 (Japanese
10 version) is presented for identification only, and
11 defense document 1838, an excerpt thereof, is offered
12 in evidence.

13 ACTING PRESIDENT: Admitted on the usual
14 terms.

15 CLERK OF THE COURT: IPS document 1641 will
16 receive exhibit No. 3421 for identification only. De-
17 fense document 1838 will receive exhibit No. 3421-A.
18

19 (Whereupon, IPS document No. 1641 was
20 marked defense exhibit No. 3421 for identifica-
21 tion, defense document No. 1838 being marked de-
22 fense exhibit No. 3421-A and received in evidence.)

23 MR. BROOKS: I shall read exhibit 3421-A,
24 defense document 1838, commencing from page 4, where
25

TAKEDA

DIRECT

32,825

1 is shown a certificate, that is IPS 1641.

2 "Certificate.

3 "12 August 1947.

4 "I, Yale Maxon, Chief of the Document Divi-
5 sion, IPS, hereby certify that the Japanese original
6 of IPS document 1641 is at present unavailable, and
7 that to the best of my knowledge and belief, the at-
8 tached pages of ditto copy processed, but never used
9 by the prosecution, are an exact reproduction thereof."

10 Signed: "Yale Maxon."

11 Then coming back to page 1 I shall read from
12 the place marked P.3.

13 "On September 13, at 11:46 p.m., the Chief of
14 Staff of the Kwantung Army received the following
15 telegram from the Mukden Special Service Organ (Tokumu-
16 Kikan):

17 "'A little after ten o'clock of the 18th re-
18 ports were received that outrageous Chinese troops
19 destroyed the South Manchurian Railway lines west
20 of the big North Barracks north of Mukden, attacking
21 the guards and clashing with the garrison troops. In
22 view of this report, the 2d Infantry Battalion of the
23 Mukden Independent Garrison is now on its way to the
24 place of the clash.'

25 "At 0:28 hours on the 19th, the Chief of Staff

TAKELA

DIRECT

32,826

1 received another telegram from the said Mukden Special
2 Service Organ as follows:

3 "The Chinese troops at the North Army Bar-
4 racks blew up the Manchurian Railway, the forces con-
5 cerned number three or four companies of infantry.
6 They have subsequently fled into their barracks. Since
7 11 o'clock, our Hushipai company has been fighting
8 against five or six hundred enemy troops in the North
9 Barracks, and although we have occupied a corner of the
10 place, the enemy is now increasing their machine guns
11 and infantry guns. Our company is now fighting at
12 odds, and First Lieutenant NODA has been severely
13 wounded.'

14 "Page 8.

15 "At 6:00 p.m. of the same day (the 19th),"--
16 that is the 19th of September 1931 --"the following
17 telegram was received from the War Minister:

18 "'Referring to the recent clash between
19 Japanese and Chinese troops, the Imperial Government
20 decided to make every effort to avoid extension of the
21 situation, even though the Chinese troops must be
22 blamed for producing its cause by destroying the South
23 Manchurian Railway lines. The Cabinet requests you,
24 therefore, to act in accordance with this principle.'

25 "Page 9.

TAKEDA

DIRECT

32,827

1 "At the same time the following telegram was
2 received from the Chief of General Staff:

3 "'1. I believe that the resolutions and
4 measures taken by the Commander of the Kwantung Army
5 since the night of September 18th are appropriate to
6 the occasion and have enhanced the prestige of the
7 Japanese Army.

8 "'2. In view of the Chinese attitude, etc.
9 since the outbreak of the incident, the Cabinet has
10 decided not to go beyond what is necessary in dealing
11 with the incident. The Army should, therefore, conform
12 with this principle in its action.'"

13 Referring back to note on No. 8, Language
14 Section.

15 As to the circumstances under which these
16 telegrams were sent and received I refer to testimonies
17 of KATAKURA, Tadashi (Court Record pages 18,890;
18 18,897-18,901), TAKEDA, Hisashi (Court Record pages
19 19,325-19,327), KAWABE, Torashiro (Court Record page
20 19,414), and MINAMI (Court Record pages 19,779-19,782)
21 and KOISO (Court Record page 32,217).

22 I continue reading exhibit No. 3420, defense
23 document No. 2739, from paragraph 3 on page 2.

24 "3. From August 1933 to April 1937 I was
25 attached to the General Staff, Tokyo. During this period

TAKEDA

DIRECT

32,828

1 I was ordered to compile a history of the Manchurian
2 Incident. For such purpose I collected necessary
3 materials from all available sources, and in particular
4 made copies of original telegrams, then kept at the War
5 Ministry and the General Staff, by using several as-
6 sistsants. All copies and manuscripts thus prepared
7 were held together under my care as chief of compilers.
8 My last manuscript was completed in March 1937 and sub-
9 mitted to the superiors of the General Staff. I heard
10 that it was printed after the transfer of my post to
11 the Infantry School at Chiba in the said month, but
12 have not received a copy. I believe that all the prints
13 and manuscripts of the History of the Manchurian Inci-
14 dent were burned at the General Staff at the time of
15 the surrender.

16 "4. In the course of the said work of com-
17 pilation, the descriptive parts of manuscripts were
18 frequently revised on account of verious opinions of
19 persons interested, while the text of telegrams re-
20 mained constant. Hence, I used to cut out from an old
21 draft the parts containing the quotations and stuck them
22 onto a new draft." Quotations referred to there are
23 the telegrams. "Even after the transfer of my post
24 from the General Staff I had in my possession a con-
25 siderable number of such copies of telegrams, but all

TAKEDA

DIRECT

32,829

1 of them (so I thought until recently) were destroyed
2 or lost during the period of almost continuous removals
3 of my living quarters since 1937 and in the turmoil of
4 war. Upon receiving, however, requests from the de-
5 fense of IMTFE, I made a thorough search of my belong-
6 ings and found copies of 16 telegrams.

7 "5. I identify defense document No. 2048 A to
8 P as the said copies of 16 telegrams, the copies which
9 were prepared by me in the manner aforesaid during the
10 period between August 1933 and March 1937 in the course
11 of my duty as Chief Compiler of the History of the Man-
12 churian Incident. The copies are, therefore, in sun-
13 dry forms, such as mimeographed (see A,B,C,D,F,G,L,
14 M,N,O and P), and typewritten (see E and I), and pencil
15 written (see H,J and K), according to respective drafts
16 or manuscripts from which they were cut out.

17 "Referring to the telegrams in question, I
18 hear that the records of the War Ministry and the Gen-
19 eral Staff are not available. If that is the case,
20 defense documents No. 2048 A-P are, to the best of my
21 knowledge and belief, the only existing authentic
22 copies as regards some of the secret telegraphic cor-
23 respondence in the early stage of the Manchurian Inci-
24 dent.

25 "On this 14th day of October, 1947."

TAKEDA

DIRECT

32,830

1 I will now go to note 11.

2 At this time I request defense documents 2048
3 A to P be shown to the witness.

4 (Whereupon, documents were handed
5 to the witness.)

6 MR. BROOKS: Are they the copies of telegrams
7 referred to in paragraph 5 of your affidavit, exhibit
8 No. 3420?

9 THE WITNESS: Yes.

10 MR. BROOKS: Defense documents 2048A to P are
11 offered in evidence. I ask that each telegram be
12 marked by separate letters A to P as I will be refer-
13 ring to them individually.

14 ACTING PRESIDENT: Admitted on the usual
15 terms.

16 CLERK OF THE COURT: Defense documents 2048A
17 to P will receive exhibit No. 3422. Defense document
18 2048-B will receive exhibit No. 3422-A.

19 MR. BROOKS: Just a second, please. Can you
20 mark those 3422-A to P without marking the certificate?
21 Otherwise we will get confused with the Language Sec-
22 tion because that is the way I intend to refer to them.

23 CLERK OF THE COURT: I don't understand you.

24 MR. BROOKS: Mark the certificate 3422 and
25 then identify each telegram of 2048 A to P as 3422 A

TAKEDA

DIRECT

32,831

1 to P and that will cover all of them and save confusion.
2 May that be done, your Honor?

3 CLERK OF THE COURT: I still don't understand
4 what you are getting at.

5 MR. BROOKS: If the clerk can mark defense
6 document 2048 A to P, the certificate will be given
7 exhibit No. 3422 and each telegram from A to P be
8 given 3422 A to 3422 P we will save confusion. Mark
9 the certificate with the original number.

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TAKEDA

DIRECT

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CLERK OF THE COURT: Defense document 2048-A
will receive exhibit No. 3422-A. Defense document 2048-B
will receive exhibit No. 3422-B. Defense document
2048-C will receive exhibit No. 3422-C. Defense docu-
ment 2048-D will receive exhibit No. 3422-D. Defense
document 2048-E will receive exhibit No. 3422-E. Defense
document 2048-F will receive exhibit No. 3422-F. De-
fense document 2048-G will receive exhibit No. 3422-G.
Defense document 2048-H will receive exhibit No. 3422-H.
Defense document 2048-I will receive exhibit No. 3422-I.
Defense document 2048-J will receive exhibit No. 3422-J.
Defense document 2048-K will receive exhibit No. 3422-K.
Defense document 2048-L will receive exhibit No. 3422-L.
Defense document 2048-M will receive exhibit No. 3422-M.
Defense document 2048-N will receive exhibit No. 3422-N.
Defense document 2048-O will receive exhibit No. 3422-O.
Defense document 2048-P will receive exhibit No. 3422-P.

(Whereupon, the documents above
referred to were marked defense exhibits
No. 3422-A through 3422-P, respectively,
and received in evidence.)

THE PRESIDENT: What number is the certificate?

MR. BROOKS: The certificate should be 3422,
your Honor. It is the first one on the document.

(Whereupon, the certificate above

TAKEDA

DIRECT

32,832

CLERK OF THE COURT: Defense document 2048-A
will receive exhibit No. 3422-A. Defense document 2048-B
will receive exhibit No. 3422-B. Defense document
2048-C will receive exhibit No. 3422-C. Defense docu-
ment 2048-D will receive exhibit No. 3422-D. Defense
document 2048-E will receive exhibit No. 3422-E. Defense
document 2048-F will receive exhibit No. 3422-F. De-
fense document 2048-G will receive exhibit No. 3422-G.
Defense document 2048-H will receive exhibit No. 3422-H.
Defense document 2048-I will receive exhibit No. 3422-I.
Defense document 2048-J will receive exhibit No. 3422-J.
Defense document 2048-K will receive exhibit No. 3422-K.
Defense document 2048-L will receive exhibit No. 3422-L.
Defense document 2048-M will receive exhibit No. 3422-M.
Defense document 2048-N will receive exhibit No. 3422-N.
Defense document 2048-O will receive exhibit No. 3422-O.
Defense document 2048-P will receive exhibit No. 3422-P.

(Whereupon, the documents above
referred to were marked defense exhibits
No. 3422-A through 3422-P, respectively,
and received in evidence.)

THE PRESIDENT: What number is the certificate?

MR. BROOKS: The certificate should be 3422,
your Honor. It is the first one on the document.

(Whereupon, the certificate above

TAKEDA

DIRECT

32,832

CLERK OF THE COURT: Defense document 2048-A
will receive exhibit No. 3422-A. Defense document 2048-B
will receive exhibit No. 3422-B. Defense document
2048-C will receive exhibit No. 3422-C. Defense docu-
ment 2048-D will receive exhibit No. 3422-D. Defense
document 2048-E will receive exhibit No. 3422-E. Defense
document 2048-F will receive exhibit No. 3422-F. De-
fense document 2048-G will receive exhibit No. 3422-G.
Defense document 2048-H will receive exhibit No. 3422-H.
Defense document 2048-I will receive exhibit No. 3422-I.
Defense document 2048-J will receive exhibit No. 3422-J.
Defense document 2048-K will receive exhibit No. 3422-K.
Defense document 2048-L will receive exhibit No. 3422-L.
Defense document 2048-M will receive exhibit No. 3422-M.
Defense document 2048-N will receive exhibit No. 3422-N.
Defense document 2048-O will receive exhibit No. 3422-O.
Defense document 2048-P will receive exhibit No. 3422-P.

(Whereupon, the documents above
referred to were marked defense exhibits
No. 3422-A through 3422-P, respectively,
and received in evidence.)

THE PRESIDENT: What number is the certificate?

MR. BROOKS: The certificate should be 3422,
your Honor. It is the first one on the document.

(Whereupon, the certificate above

TAKEDA

DIRECT

32,832

CLERK OF THE COURT: Defense document 2048-A
will receive exhibit No. 3422-A. Defense document 2048-B
will receive exhibit No. 3422-B. Defense document
2048-C will receive exhibit No. 3422-C. Defense docu-
ment 2048-D will receive exhibit No. 3422-D. Defense
document 2048-E will receive exhibit No. 3422-E. Defense
document 2048-F will receive exhibit No. 3422-F. De-
fense document 2048-G will receive exhibit No. 3422-G.
Defense document 2048-H will receive exhibit No. 3422-H.
Defense document 2048-I will receive exhibit No. 3422-I.
Defense document 2048-J will receive exhibit No. 3422-J.
Defense document 2048-K will receive exhibit No. 3422-K.
Defense document 2048-L will receive exhibit No. 3422-L.
Defense document 2048-M will receive exhibit No. 3422-M.
Defense document 2048-N will receive exhibit No. 3422-N.
Defense document 2048-O will receive exhibit No. 3422-O.
Defense document 2048-P will receive exhibit No. 3422-P.

(Whereupon, the documents above
referred to were marked defense exhibits
No. 3422-A through 3422-P, respectively,
and received in evidence.)

THE PRESIDENT: What number is the certificate?

MR. BROOKS: The certificate should be 3422,
your Honor. It is the first one on the document.

(Whereupon, the certificate above

TAKEDA

DIRECT

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referred to was marked defense exhibit
1 No. 3422 and received in evidence.)
2
3 MR. BROOKS: I shall read exhibit 3422-A,
4 omitting the certificate.
5 "September 19, 1931. From: Commander of Korean
6 Army. To: Commander of Kwantung Army. Telegram No.:
7 Cho-San-Po 26.
8
9 "!As the Chief of Staff compelled me to suspend
10 dispatch of reinforcements in spite of my repeated
11 statements of opinion, the troops, other than air force,
12 are temporarily stopped on the south side of Shingishu,
13 awaiting further developments of the situation!"
14
15 As to the circumstances mentioned in this
16 telegram, I refer to KAWABE's testimony, court record
17 page 19,413, and KOISO's testimony at court record
18 page 32,217 to 32,218; also that of KODAMA, who will
19 be called later as a witness.
20
21 Also in this connection, I offer in evidence
22 defense document No. 2096, an excerpt from exhibit
23 3038-G. This is a letter from the Chief of General
24 Staff to the War Minister, dated September 22, 1931,
25 and will show, together with exhibit 3422-A, just now
read, that the dispatch of troops abroad was absolutely
under the jurisdiction of the Chief of General Staff
and that MINAMI was only a recipient of a notice after

TAKEDA

DIRECT

32,834

the fact was accomplished.

1 THE PRESIDENT: Admitted on the usual terms.

2 CLERK OF THE COURT: Defense document 2096
3 will receive exhibit No. 3423.

4 (Whereupon, the document above
5 referred to was marked defense exhibit
6 No. 3423 and received in evidence.)

7 MR. BROOKS: I shall read the exhibit.

8 "Excerpt from the Manchurian-Secret-Great-Diary.
9 "1931, Vol. 1. War Ministry.

10 "War Ministry Receipt No.: Riku-Man-Mitsu 1.
11 General Staff Dispatch No.: San-Mitsu 406/1. To War
12 Minister MINAMI, Jiro. Dated September 22, 1931.

13 "Notice re Delivery of Order for Dispatch of
14 Forces to Manchuria.

15 "Notice is hereby given that referring to the
16 dispatch of forces to Manchuria an order as per attached
17 has been delivered to the authorities concerned.

18 "Signed, KANAYA, Hanzo, Chief of General Staff.

19 -----
20

21 "Top Secret. Rin-san-Mei No. 1. Order.

22 "The following units from the subordinate
23 troops of the Commander of Korean Army shall be dis-
24 patched to Manchuria and placed under the command of
25 the Commander of Kwantung Army.

TAKEDA

DIRECT

32,835

"Infantry, 1 brigade (less 1 battalion).

1 Cavalry, 1 company. Field Artillery, 2 companies.

2 Sappers, 1 company. Air Force, 2 companies. Signals,
3 1 unit.

4 "The above-mentioned units shall enter the
5 command of the Commander of Kwantung Army on their
6 crossing of the Yalu River.

7 "The Chief of General Staff shall give
8 instructions with regard to details.

9 "Dated September 22, 1931.

10 "By Imperial Command, Chief of General Staff,
11 KINAYA, Hanzo.

12 "To Commander of Korean Army, HAYASHI, Senjuro.

13 "To Commander of Kwantung Army, HONJO, Shigeru."

14 As to the circumstances mentioned therein, I
15 refer to MINAMI's testimony, court record page 19,782.

16 I now read exhibit 3422-B.

17 "September 20, 1931. From: Vice-Chief of
18 General Staff. To: Chief of Staff of Kwantung Army.
19 Telegram No. 27.

20 "1. After taking the general situation into
21 consideration, the General Staff agreed to the policy
22 (as per Telegram No. 15), decided upon at the cabinet
23 meeting of the 19th, yesterday, as to how to dispose
24 of the incident hereafter. Please understand, however,

TAKEDA

DIRECT

32,836

that you are not restricted in taking necessary actions
1 for accomplishing your proper duties or for self-defense
2 of the army, should the change of circumstances so
3 demand. Although I believe your measures are fully
4 appropriate to meet the situation, it is hoped, all
5 the more, that you will pay particular attention to
6 the prestige of the Imperial Army, by precluding the
7 Chinese troops and citizens from violating our military
8 orders and by making our officers and men observe the
9 most strict discipline, so that no one at home or
10 abroad may find any cause to blame the army.
11

12 "2. As some officials in the Japanese dip-
13 lomatic and S.M.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20 As to the circumstances mentioned in this
21 telegram, I refer to KATAKURA's testimony, court record
22 pages 18,934 to 18,935.
23

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

TAKEDA

DIRECT

32,836

that you are not restricted in taking necessary actions
1 for accomplishing your proper duties or for self-defense
2 of the army, should the change of circumstances so
3 demand. Although I believe your measures are fully
4 appropriate to meet the situation, it is hoped, all
5 the more, that you will pay particular attention to
6 the prestige of the Imperial Army, by precluding the
7 Chinese troops and citizens from violating our military
8 orders and by making our officers and men observe the
9 most strict discipline, so that no one at home or
10 abroad may find any cause to blame the army.
11

12 "2. As some officials in the Japanese dip-
13ломatic and S.H.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20 As to the circumstances mentioned in this
21 telegram, I refer to KATAKURA's testimony, court record
22 pages 18,934 to 18,935.
23

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

TAKEDA

DIRECT

32,836

that you are not restricted in taking necessary actions
1 for accomplishing your proper duties or for self-defense
2 of the army, should the change of circumstances so
3 demand. Although I believe your measures are fully
4 appropriate to meet the situation, it is hoped, all
5 the more, that you will pay particular attention to
6 the prestige of the Imperial Army, by precluding the
7 Chinese troops and citizens from violating our military
8 orders and by making our officers and men observe the
9 most strict discipline, so that no one at home or
10 abroad may find any cause to blame the army.
11

12 "12. As some officials in the Japanese dip-
13 lomatic and S.M.R. circles in Manchuria are suspected
14 of sending groundless reports about actions of the
15 army, please endeavour to investigate their sources
16 and seriously provide all means to eliminate such
17 unpatriotic acts. I believe that the army should make
18 a declaration of its grave resolution, in case unpa-
19 triotic schemes are still continued."

20 As to the circumstances mentioned in this
21 telegram, I refer to KATAKURA's testimony, court record
22 pages 18,934 to 18,935.
23

24 I now read exhibit No. 3422-C.

25 "September 22, 1931. From: War Minister.

To: Commander of Kwantung Army. Telegram No.: Riku 213.

TAKEDA

DIRECT

32,837

1 "In view of the general situation at home
2 and abroad, it is not proper for the army itself to
3 carry out direct military administration. No time
4 shall be lost in letting Chinese autonomous agencies,
5 such as the General Chamber of Commerce, take charge
6 thereof. The task of the army shall be confined only
7 to negotiation and liaison with such agencies."

8 In order to substantiate that such a telegram
9 was sent to the Kwantung Army, I offer for identifica-
10 tion only the September-October issue of the Japan
11 Chronicle, 1931.

12 CLERK OF THE COURT: The Japan Chronicle of
13 September and October, 1931, will receive exhibit
14 No. 3424 for identification only.

15 (Whereupon, the document above
16 referred to was marked defense exhibit
17 No. 3424 for identification.)

18 MR. BROOKS: And I offer in evidence defense
19 document 2515, an excerpt from said Japan Chronicle
20 of September 23, 1931.

21 MR. WOOLWORTH: If the Tribunal please, the
22 prosecution objects to the introduction of the document.
23

24 ACTING PRESIDENT: Wait until we get copies,
25 please.

MR. WOOLWORTH: The prosecution objects to

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1 "In view of the general situation at home
2 and abroad, it is not proper for the army itself to
3 carry out direct military administration. No time
4 shall be lost in letting Chinese autonomous agencies,
5 such as the General Chamber of Commerce, take charge
6 thererf. The task of the army shall be confined only
7 to negotiation and liaison with such agencies."

8 In order to substantiate that such a telegram
9 was sent to the Kwantung Army, I offer for identifica-
10 tion only the September-October issue of the Japan
11 Chronicle, 1931.

12 CLERK OF THE COURT: The Japan Chronicle of
13 September and October, 1931, will receive exhibit
14 No. 3424 for identification only.

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17 No. 3424 for identification.)

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20 of September 23, 1931.

21 MR. WOOLWORTH: If the Tribunal please, the
22 prosecution objects to the introduction of the document.
23

24 ACTING PRESIDENT: Wait until we get copies,
25 please.

MR. WOOLWORTH: The prosecution objects to

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the introduction of defense document No. 2515 as
1 being of no probative value.

2 MR. BROOKS: I offer it, if your Honor pleases,
3 merely to bear out that the telegram was sent, and
4 that the contents are in line with what is quoted in
5 this article, since it by itself would have very
6 little probative value; but with the other telegram
7 referring to the contents and this article also refer-
8 ring to the contents, the two together do have pro-
9 bative value and substantiate each other as to the
10 contents that were sent at the time. It is very
11 short and it is merely for corroboration and, of course,
12 is secondary evidence.

14 ACTING PRESIDENT: By a majority of the
15 Tribunal, the objection is sustained.

16 MR. BROOKS: As to the circumstances under
17 which the telegram last received was sent, I refer
18 the Court to KATAMURA's testimony, court record pages
19 18,924 to 18,925.

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TAKEDA

DIRECT

32,838

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10 contents that were sent at the time. It is very
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12 is secondary evidence.

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15 Tribunal, the objection is sustained.

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17 which the telegram last received was sent, I refer
18 the Court to KATAKURA's testimony, court record pages
19 18,924 to 18,925.

20

21

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1 I now read exhibit 3422-D.

2 "Sept. 22nd, 1931.

3 "From: Chief of General Staff.

4 "To: Commander of Kwantung Army.

5 "Telegram No. 39.

6 "I approve the actions of your army up
7 to now as timely and upholding the prestige of the
8 country and the army. As to the future actions,
9 however, you must maintain the present formation in
10 line with your original duties, keeping a quiet
11 watch with strict fairness, unless the situation takes
12 an extraordinary sudden turn."

13 As to the circumstances mentioned in this
14 telegram, I refer to KAWABE's testimony, court record
15 pages 19,415-19,416.

16 I next read exhibit 3422-E.

17 "Sept. 23rd, 1931.

18 "From: Chief of Staff of Kwantung Army.

19 "To: Vice-Minister of War and Vice-Chief of
20 General Staff.

21 "Telegram No. Kan-San 435.

22 "The present incident has absolutely no
23 connection with Fushen case reported by Consul-General
24 HAYASHI to the Foreign Minister. Please have no
25 anxiety whatsoever. Details have been told to ANDO.

TAKEDA

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32,839

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3 "From: Chief of General Staff.

4 "To: Commander of Kwantung Army.

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8 country and the army. As to the future actions,
9 however, you must maintain the present formation in
10 line with your original duties, keeping a quiet
11 watch with strict fairness, unless the situation takes
12 an extraordinary sudden turn."

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14 telegram, I refer to KAWABE's testimony, court record
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18 "From: Chief of Staff of Kwantung Army.

19 "To: Vice-Minister of War and Vice-Chief of
20 General Staff.

21 "Telegram No. Kan-San 435.

22 "The present incident has absolutely no
23 connection with Fushen case reported by Consul-General
24 HAYASHI to the Foreign Minister. Please have no
25 anxiety whatsoever. Details have been told to ANDO.

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1. The above is specially reported."

2. As to the so-called Fushun case mentioned.
3. in this telegram, I refer to testimonies of KATAKURA,
4. court record pages 18,932-18,935, and ISHIWARA, Kanji,
5. court record pages 22,140-22,142; 22,231-22,235.

6. I now read exhibits F, G, and H of 3422.

7. Exhibit 3422-F:

8. "Sept. 23rd, 1931.

9. "From: Chief of General Staff.

10. "To: Commander of Kwantung Army.

11. "Telegram No. 57.

12. "'No dispatch of troops shall be made to
13. Harbin even in the event of sudden change of situa-
14. tion.'"

15. I next read exhibit 3422-G:

16. "Sept. 23rd, 1931.

17. "From: Vice-Minister of War.

18. "To: Chief of Staff of Kwantung Army.

19. "Telegram No. Riku-Man 17.

20. "'The cabinet meeting has decided that no
21. protection on the spot shall be given to Japanese
22. residents in Harbin, and that they shall be evacuated
23. therefrom, should the situation make it inevitable.'"

24. I next read exhibit 3422-H:

25. "Sept. 24th, 1941.

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"From: War Minister.

"To: Commander of Kwantung Army.

"Telegram No. Riku-Man 20.

"Even if the condition in Chientao becomes serious, the military force shall not be used, but prevention of the aggravation of the situation shall be by relying on police power."

As to the circumstances mention in these telegrams, I refer to testimonies of KATAKURA, court record pages 18,813-18,924; KAWABE, court record pages 19,416-19,417; and MINAMI, court record pages 19,787-19,788.

In this connection I offer in evidence defense document 1938, an excerpt from exhibit 3038-G, to show that Major-General HASHIMOTO, Toranosuke (not the accused HASHIMOTO) was sent to Manchuria by MINAMI's instructions of September 24, 1931, for the purpose of regulating the actions of the Kwantung Army in conformity with the policy of the government.

ACTING PRESIDENT: Admitted on the usual terms.

CLERK OF THE COURT: Defense document 1938 will receive exhibit No. 3425.

(Whereupon, the document above referred to was marked defense exhibit No. 3425 and received in evidence.)

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1 MR. BROOKS: I shall read exhibit 3425:
2 "Excerpt from the Manchurian Secret Great
3 Diary.

4 "War Ministry.

5 "Vol. I, 1931.

6 "Received at the War Ministry: Riku-Man-
7 Mitsu-Ju No. 13, Sept. 25.

8 "War Minister (MINAMI seal), Vice-Minister
9 (SUGIYAMA seal).

10 "Department Chief (KOISO seal), Section
11 Chief (NAGATA seal).

12 "Instruction given to Major-General
13 HASHIMOTO by the War Minister." This is not the
14 accused HASHIMOTO.

15 "1. You will depart for Manchuria and
16 take charge of the liaison between the central author-
17 ties and the Kwantung Army Headquarters. For such
18 purpose the following personnel will be attached to
19 you:

20 "1 member of the General Staff.

21 "1 code officer.

22 "1 member of a section of the War Ministry.

23 "2. Detailed instructions will be given
24 by the Vice-Minister of War."

25 "Riku-Kun No. 19 (instruction No.)

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"Dated Sept. 24th, 1931.

1 "(Man-Mitsu No. 13, Sept. 25)

2 "Vice-Minister (SUGIYAMA seal);

3 "Department-Chief (KOISO seal);

4 "Section-Chief (NAGATA seal). . . .

5 "Instruction to Major-General HASHIMOTO from
6 the Vice-Minister.

7 "1. Taking the policy of the Empire into
8 careful consideration vis-a-vis actions of the
9 Kwantung Army, you shall endeavor, in matters seriously
10 affecting such policy, not to let the army act solely
11 on its judgment of the immediate situation, but make
12 it apply for instructions of the central authorities.

13 "2. You shall make the army conform with
14 the intention of the central authorities with regard
15 to its propaganda."

16 "Riku-Man-Mitsu No. 7.

17 "Dated Sept. 24th, 1931."

18 As to the circumstances thereof, I refer to
19 the testimony of MORISHIMA, Morito, court record
20 page 3,091.

21 I will next read exhibit 3422-I.

22 "Sept. 25, 1931.

23 "From War Minister.

24 "To Commander of Kwantung Army.

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"Telegram No. Riku-Man 31.

"By virtue of the governmental declaration!"-- this is defense document 1947 on our order of proof, if your Honor pleases, this governmental declaration --"recently proclaimed, the course of the Empire's policy has become clear of itself.

"At the cabinet meeting at this 25th, all the members agreed to make every possible effort, with unity and cooperation, for the execution of the purport of the said declaration. Now that the country is facing an emergency, it is absolutely necessary that both the diplomatic and military authorities on the spot should renounce minor differences for the greater common aim and do their duty by mutual cooperation for the interest of the country. The Foreign Minister has instructed the diplomatic organs on the spot to the same effect as above.

"Such a necessity is felt even more at this time when an end shall be put to military actions and a turn for diplomatic negotiations be commenced."

At this time I ask that defense document 1947 be shown to the witness.

(Whereupon, a document was handed to the witness.)

MR. WOOLWORTH: If the Tribunal please --

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ACTING PRESIDENT: Please wait until we
1 get the document so that we can see what it is.

2 MR. BROOKS: Has the witness been given
3 defense document 1947?

4 Q Is it the governmental declaration referred
5 to in the telegram last read?

6 A Yes.

7 MR. BROOKS: May it please the Tribunal,
8 although defense document 1947 was rejected at the
9 time of ITAGAKI's case on the ground that it should
10 have been produced in the general phase, court record
11 pages 30,058-30,060, we wish to offer it again in
12 evidence for the three following reasons:

13 Firstly, MINAMI specifically mentions in
14 his telegram just now read that he and other members
15 of the cabinet will make every possible effort for the
16 execution of the purport of the said document, that
17 is to say, the governmental declaration of September
18 24, 1931. According to the rule of this Tribunal,
19 the governmental declaration referred to must be
20 produced in evidence in such cases.

21 Secondly, the governmental declaration is
22 not only an integral part of his top secret instruc-
23 tion to the Commander of the Kwantung Army, but the
24 basis of his actions in connection with the Manchurian

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1 Incident. Unless the governmental declaration be
2 admitted in evidence, there will be no standard to
3 judge his conduct in the events that followed.

4 Thirdly, the governmental declaration itself
5 was made by a unanimous resolution of MINAMI and
6 other members of the cabinet. It is a public manifes-
7 tation of MINAMI's attitude towards the incident,
8 while the telegram above mentioned was a confidential
9 expression thereof. Whether these two agree or not
10 will have a vital importance in the defense of
11 MINAMI. We respectfully submit, therefore, that
12 defense document 1947 is more relevant and material
13 to MINAMI's individual case than it was to the general
14 phase and that now is the correct time to present the
15 document into evidence, especially in relation to
16 paragraphs 4 and 5, which are all I wish to read.

17 (Whereupon, Mr. Woolworth approached
18 the lectern.)

19 ACTING PRESIDENT: Will you present your
20 objections after lunch?

21 The court will recess until 1:30.

22 (Whereupon, at 1200, a recess was
23 taken.)

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

ACTING PRESIDENT: I thought that Colonel
Woolworth was about to put up his objections.

MR. COMYNS CARR: I will take the objection,
if it please the Tribunal.

- - -

H I S A S H I T A K E D A, recalled as a witness
on behalf of the defense, resumed the stand
and testified through Japanese interpreters
as follows:

MR. COMYNS CARR: If it please the Tribunal,
in our submission, no good reason has been shown why
the previous ruling of the Court on this document
should be changed. It is sought to justify it by
saying that this document is the document referred
to in exhibit 3422-I. The document purports to be a
statement issued after the Extraordinary Cabinet
Meeting of September 24, 1931. The only cabinet
meeting referred to in exhibit 3422-I is a meeting of
September 25.

It is true that the first paragraph of

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exhibit 3422-I refers to "a declaration recently
1 proclaimed," but one would have thought that if
2 that referred to a declaration issued after the
3 Cabinet Meeting of September 24, it would have said
4 "yesterday" and not "recently."
5

In our submission, therefore, their attempt
6 to link it up with the telegram fails and, in any
7 event, the suggestion which was successfully put for-
8 ward at page 30,060, namely, that it belonged, if
9 anywhere, in the general phase, is equally valid now.
10

MR. BROOKS: If the Tribunal please, I
11 think the witness has confirmed the governmental
12 declaration as the one referred to in the telegram,
13 exhibit 3422-I.
14

As to the Cabinet Meeting of the 25th,
15 referred to in exhibit 3422-I, in the second para-
16 graph, that is another meeting which will be shown
17 later.
18

The defense offers this document, 1947, for
19 the purpose of corroborating the contents of the
20 telegram of the War Minister embodied in exhibit
21 3422-I. The telegram, exhibit 3422-I, says that,
22 "By virtue of the governmental declaration recently
23 proclaimed, the course of the Empire's policy has
24 become clear of itself," and also that all members
25

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of the Cabinet agreed to execute the purport of said
declaration. This declaration is, therefore, the
basis of a part of the War Minister's instruction to
the Kwantung Army. This will show that MINAMI's
confidential expression of his intention and the
public announcement of the government were entirely
in accord with each other. This will refute all the
evidence produced by the prosecution alleging that
MINAMI advocated a positive policy towards Manchuria
and brought about the downfall of the Cabinet. The
certificate shows that it is an official document
of the Extraordinary Cabinet Meeting of the 24th of
September, 1931. Paragraphs 4 and 5 thereof are not
repetitious and set out the **official** declaration of
the WAKATSUKI Cabinet, of which MINAMI was the War
Minister, and I agree that the document would not
be so relevant to ITAGAKI's case because he was not
a member of this Cabinet, and he was not related to
the telegrams and so forth connected therewith except
very remotely.

Therefore, I say that now is the correct
time to present this document into evidence.

ACTING PRESIDENT: How do you identify that
as the governmental declaration referred to in ex-
hibit 3422-I?

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MR. BROOKS: I had asked the witness that, your Honor, when I first started to offer it, if you recall.

ACTING PRESIDENT: The witness cannot identify this as that particular declaration.

MR. BROOKS: If the Court will remember,
this witness compiled the Manchurian History and is
familiar with the governmental declaration spoken of
in this telegram itself. I submit that that is a
matter that could be very well examined into on
cross-examination if there is any doubt on the part
of the prosecution on the same point.

13 ACTING PRESIDENT: By a majority vote, the
14 objection is sustained.

15 Before you proceed to another matter, I
16 want to read a notice that I overlooked.

With the Tribunal's permission, the accused
TOGO will be absent from the courtroom the whole of
the afternoon session conferring with his counsel.

MR. BROOKS: I will now read exhibit 3342-J:

"September 25th, 1931

"From: War Minister.

"To: Commander of Kwantung Army.

"Telegram No: Riku-Man 35.

"'It is strictly prohibited to have any

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ACTING PRESIDENT: The witness cannot identify this as that particular declaration.

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7 familiar with the governmental declaration spoken of
8 in this telegram itself. I submit that that is a
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"September 25th, 1931

"From: War Minister.

"To: Commander of Kwantung Army.

"Telegram No: Riku-Man 35.

"It is strictly prohibited to have any

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1 connection with the movement for promoting a new
2 regime in Manchuria."

3 In order to substantiate this telegram, the
4 defense wishes first to present two documents for
5 identification only. The first one is a "Collection
6 of Documents referring to the League of Nations,"
7 containing a speech of MATSUOKA, made on November,
8 1932, at the League Council. This speech was pro-
9 cessed as defense document No. 131.

10 The other is entitled "Observations of the
11 Japanese Government on the Report of the Commission
12 of Inquiry" and was processed as defense document No.
13 189. Both documents were rejected previously on the
14 ground that they contained arguments, court record
15 pages 19,692 and 19,699. However, as I wish to sub-
16 mit only a short excerpt from each of them, the
17 originals are offered now for identification only.
18

CLERK OF THE COURT: Volume entitled,
19 "Collection of Documents relating to the League of
20 Nations, Volume III," will receive exhibit No. 3426
21 for identification only.
22

Volume entitled, "Observations of the Japa-
23 nese Government on the Report of the Commission of
24 Inquiry," will receive exhibit No. 3427 for identi-
25 fication only.

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1 MR. BROOKS: I now offer in evidence defense
2 document 2513, an excerpt from exhibit 3426, and I
3 also offer defense document 2514, an excerpt from
4 exhibit 3427.

5 We present these two rather similar documents,
6 merely to substantiate the purpose and contents of
7 MINAMI's instructions, embodied in the telegram just
8 now read.

9 MR. WOOLWORTH: If the Tribunal please,
10 prosecution objects to the introduction of these
11 documents into evidence.

12 I invite the Court's attention to the fact
13 that that document, exhibit 3427, was rejected by the
14 Tribunal at record page 18,765 and again at 18,694.
15 This exhibit, 3427, is merely an ex parte statement
16 and has no probative value.

17 As for exhibit 3426, the fact that MATSUOKA
18 made a speech in which he made certain statements is
19 no proof of the statements having been made. This
20 document was rejected by the Tribunal previously at
21 page 19,700 of the record.

22 MR. BROOKS: If the Tribunal please, they will
23 notice that both of these defense documents, 2514 and
24 2513, are from two different sources and are quite
25 similar and talk of similar contents.

1 In reply to the objection, I submit that
2 there are 3 points to be argued:

3 Firstly, according to Cockles' Evidence
4 (4th Edition, page 345), "There are, generally, no
5 degrees of secondary evidence. When a party is at
6 liberty to adduce secondary evidence, he may put in
7 any description of the same he pleases."

8 The defense has shown that since MINAMI's
9 first application on November 11, 1946 was heard in
10 chambers on November 18, 1946, Paper No. 591 of
11 December 3, 1946, a proper search has been made for
12 the originals and that the originals are at least
13 not immediately available in the meaning of Article 13,
14 c (5) of the Charter. In such a case, I submit
15 that any copy should be admitted for whatever probative
16 value it may have. The question of the time when
17 and the manner how a copy is made, is a matter of
18 weight or credibility, but not a matter of admissibil-
19 ity.

20 Secondly, Cockle states: "There can be
21 no doubt that an attested copy is more satisfactory,
22 and therefore, in that sense, better evidence than
23 mere parol testimony; but whether it excludes parol
24 testimony is a very different thing;" and also "If
25 indeed the party giving such parol evidence appears

to have better secondary evidence in his power,
1 which he does not produce, that is a fact to go to the
2 jury, from which they might sometimes presume that
3 the evidence kept back would be adverse to the party
4 withholding it; but the law makes no distinction
5 between one class of secondary evidence and another."
6 Now, the defense has presented testimony of the
7 witness as to the time and manner of the making of
8 certain copies and as to the correctness of the
9 contents thereof. Such copies constitute, therefore,
10 an integral part of the said testimony which has
11 been already received in evidence. In my submission,
12 we cannot admit the one and reject the other, which
13 is really better secondary evidence, without defeating
14 the rule above-mentioned.
15

16 Next, I wish the Tribunal would bear with
17 me for making another quotation from Cockle (Page 346).
18 "Public documents are only provable by oral evidence
19 when the originals are lost and copies are not
20 obtainable." That is this case. The telegrams in
21 question may be called public documents in the sense
22 that they were despatched by army authorities and
23 kept in Government files, but they were not public
24 in the sense that the public had no access thereto.
25 Even an official in charge of such files was not

to have better secondary evidence in his power,
1 which he does not produce, that is a fact to go to the
2 jury, from which they might sometimes presume that
3 the evidence kept back would be adverse to the party
4 withholding it; but the law makes no distinction
5 between one class of secondary evidence and another."
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7 witness as to the time and manner of the making of
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20 question may be called public documents in the sense
21 that they were despatched by army authorities and
22 kept in Government files, but they were not public
23 in the sense that the public had no access thereto.
24 Even an official in charge of such files was not
25

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allowed to make a copy. In the present case, however,
1 an extraordinary occasion arose, in which the witness,
2 as compiler of the "History of the Manchurian Incident",
3 was authorized to make as many copies as he liked.
4 If any of the copies so made in the course of his duty
5 remains today and is identified by him as such, is
6 it not the next best evidence, in the absence of the
7 original, and as authentic as any copy attested by a
8 Government office? This is the present case and in
9 the absence of the original, these statements from two
10 different sources attest to what were not original
11 telegrams and were made before one of the highest
12 international tribunals of the time.
13

In conclusion, it is respectfully submitted
14 that the whole matter rests upon the credibility of
15 the witness, as to what he has previously testified
16 to, which may be attacked by means of cross-examination,
17 but not by the objection to the admissibility of
18 evidence as to what was in the originals, not in copies,
19 but in the originals.

As to relevancy and materiality of the
21 telegrams embodied in these copies, it goes without
22 saying that they have a great bearing on MINAMI's case.
23 Although some of them show the attitude of the General
24 Staff, which did not exactly concur with that of the
25

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1 War Minister, the contrast itself will prove the true
2 and difficult situation which faced MINAMI at his
3 post.

4 Many matters are tied up in and woven among
5 the documents referred to here now, some of which
6 we have not been able to produce copies even of
7 originals and must rely upon secondary evidence of
8 this nature.

9 That is all, sir.

10 ACTING PRESIDENT: By a majority vote the
11 objection as to both documents is sustained.

12 BY MR. BROOKS: (Continued)

13 Q Mr. Witness, I would like to ask you a
14 question at this time. Have you any recollection as
15 to the fact that the War Minister sent a telegraphic
16 instruction on September 20, 1931, besides the one
17 sent on September 25, prohibiting participation in the
18 establishment of a new regime?

19 A In regards to this matter, there was only
20 one telegram sent; that of the 25th of September.
21 There are none besides this.

22 Q Can you explain why there is a difference
23 of one day in the publication of the Japanese Govern-
24 ment?

25 MR. WOOLWORTH: If the Tribunal please, I

TAKEDA

DIRECT

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object to that question. The matter has already
1 been ruled upon.

2 MR. BROOKS: I think the prosecution must
3 be confused on that, your Honor.

4 ACTING PRESIDENT: Doesn't this refer to the
5 two documents we just rejected?

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TAKEDA

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MR. BROOKS: That is right, your Honor; I got the wrong one. I withdraw the question.

I now read exhibit No. 3422-K:

"Sept. 29th, 1931

"From: Vice-Minister of War.

"To : Chief of Staff of Kwantung Army.

"Telegram No. Riku-Man 50.

"Rumour circulates among Cabinet members that the Commander of Kwantung Army is connected with the movement for restoration of Emperor Hsuantung. By way of precaution, the Army shall be warned to have nothing to do therewith."

As to the circumstances mentioned in this telegram and the preceding telegram, exhibit No. 3422-J, I refer the Court to the testimony of KATAKURA (Court record page 18,974) and MINAMI (Court record pages 19,783 and 19,785).

In accordance with chronological order, the defense wishes to offer in evidence defense document No. 1937, an excerpt from exhibit No. 3038-G. This is a telegram from the Vice-Minister of War to the Chief of Staff of the Kwantung Army, dated October 1, 1931, and will corroborate the purport of telegram No. Riku 213, which was put in evidence as exhibit No. 3422-C.

ACTING PRESIDENT: Admitted on the usual terms.

TAKEDA

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CLERK OF THE COURT: Defense document 1937
1 will receive exhibit No. 3428.

2 (Whereupon, the document above re-
3 ferred to was marked defense exhibit No.
4 3428 and received in evidence.)

5 MR. BROOKS: I shall read exhibit No. 3428:
6 "Excerpt from the Manchurian-Secret-Great-
7 Diary.

8 "Vol. I, 1931. War Ministry.
9 "Telegram (Code) from the Vice-Minister of
10 War to the Chief of Staff, Kwantung Army.

12 "Although it is reported that the Army may
13 intend to enforce municipal administration in Chang-
14 chung, avoid taking such a step by the Army itself, in
15 compliance with the policy prescribed by Riku 213
16 (T. N. -- Telegram No.) upon questions of this kind.'

17 "(Telegram No.) Riku-Man 55
18 "(Dated) Oct. 1st, 1931.

19 "11.00 A.M. (seal)."
20 I will not read the certificate.

22 The defense would like to offer in evidence
23 defense document No. 1965, which is also an excerpt from
24 exhibit No. 3038-G. This is a telegram from the Vice-
25 Minister of War to the Chief of Staff, Kwantung Army,
dated November 11, 1931, and will show that the War

TAKEDA

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Minister had no knowledge why or for what duty Colonel
1 DOIHARA was sent to Tientsin.

2 ACTING PRESIDENT: Admitted on the usual terms.

3 CLERK OF THE COURT: Defense document 1965 will
4 receive exhibit No. 3429.

5 (Whereupon, the document above
6 referred to was marked defense exhibit No.
7 3429 and received in evidence.)

8 MR. BROOKS: I shall read exhibit 3429:
9 "Excerpt from the Manchurian-Secret-Great-
10 Diary.

11 "Vol. I, 1931. War Ministry.

12 "Telegram code from the Vice-Minister of War
13 to the Chief of Staff, Kwantung Army.

14 "Happening to hear that Colonel DOIHARA is
15 presumably carrying on activities in Tientsin, we should
16 like to know what kind of duties he has been assigned
17 and also what arrangement has been made between you and
18 the China Garrison headquarters with regard to the scope
19 of his work. Further, by way of precaution, please note
20 that we are trusting the China Garrison to conduct all
21 necessary business in the North China district from a
22 standpoint of moral cooperation based on the mutual
23 respect of duties among armies. In view of the prevail-
24 ing situation, please inform us as to the duties of any

TAKEDA

DIRECT

32,862

1 person who is hereafter sent to the North China district
2 on important duty.'

3 "(Telegram No.) Riku-Man 177.

4 "(Dated November 11, 1931. 4.30 P.M. (seal))."

5 The circumstances mentioned in this telegram
6 were testified by KATAKURA (Court record page 18,969).

7 I now refer the Tribunal to exhibit No. 286,
8 telegram of November 1, 1931, from the Foreign Minister
9 to Consul-General in Tientsin, wherein it is stated in
10 paragraph 4 that MINAMI was opposed to the independence
11 of Manchuria and to the restoration of Pu-Yi. I invite
12 the Tribunal to read this in connection with exhibit No.
13 299, a telegram of November 15, 1931, from War Minister
14 MINAMI to the Commander of the Kwantung Army, wherein
15 MINAMI cautioned General HONJO that the army should not
16 meddle with the new regime movement in Manchuria but to
17 leave such matters to the Foreign Ministry to handle.

18 I now read exhibit 3422-L:

19 "Nov. 16th, 1931."

20 "From: Chief of General Staff.

21 "To : Commander of Kwantung Army.

22 "Telegram No.: Rin-San-I-Mei 4.

23 "1. In case the offensive of Ma Chan-shan's
24 army compels the outbreak of fighting, your army shall
25 try to destroy the enemy by resolute actions, even though

TAKEDA

DIRECT

32,863

1 you have to advance temporarily to the north of
2 Tsitsihar.

3 "2. In view of the general situation, however,
4 your army shall not make use of the Eastern Chinese
5 Railway. Also, your actions in both directions towards
6 east and west along the Eastern Chinese Railway shall
7 be limited to the minimum really necessary for self-
8 defense.

9 "3. Although it may be unavoidable to enter
10 Tsitsihar temporarily on account of strategic necessity,
11 your army is not permitted to occupy that place to con-
12 trol North Manchuria. The main force of the troops
13 used in that direction shall be concentrated as soon
14 as possible to the east of Chengchiatun (inclusive of
15 the town)."

16 I now read exhibit No. 3422-M:

17 "Nov. 24th, 1931.

18 "From: Chief of General Staff.

19 "To : Commander of Kwantung Army.

20 "Telegram No. 163.

21 "1. Take steps immediately, irrespective of
22 any circumstance, to withdraw the division headquarters
23 and main force to the area previously ordered, leaving
24 in and around Tsitsihar only a unit composed more or
25 less of one infantry regiment in line with the

TAKEDA

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32,864

1 established policy.

2 "12. The above-mentioned unit left behind must
3 also be withdrawn within about two weeks."

4 I now read exhibit 3422-N:

5 "Nov. 27th, 1931.

6 "From: Chief of General Staff.

7 "To : Commander of Kwantung Army.

8 "Telegram No: Rin-San-I-Mei 6.

9 "1. Your telegram Kan-san 360 was received.

10 "2. Unless a new duty is assigned, your army
11 shall not take any operational action at your own
12 discretion to the west of the Liao River, the south
13 of Chenghiatun vicinity and the south of the Cheng-
14 chiatun-Tungliao Railway for the reinforcement of the
15 China Garrison."

16 As to the circumstances mentioned in these
17 telegrams, I refer to testimonies of KATAKURA (Court
18 record page 19,351) and KAWABE (Court record pages
19,417, 19,418-19,419). As to the last telegram in
20 particular, that is, exhibit No. 3422-N, I refer to
21 MINAMI's testimony (Court record pages 19,788 - 19,789)
22 and KOISO's testimony (Court record page 32,219) and to
23 exhibit No. 57, the Lytton Report, at page 77, where it
24 is stated that on November 29th, to the great surprise
25 of the Chinese, the Japanese forces were withdrawn to

Hsinmin.

TAKEDA

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32,865

1 To continue reading exhibit No. 3422-O:
2 "Jan. 27th, 1932.
3 "From: Commander of Kwantung Army.
4 "To: War Minister and Chief of General Staff.
5 "Telegram No.: Kan-San 355.
6 "'Following the northern expedition of the
7 Kirin Army, the former Ting Chao Army looted Fuchiatian,
8 and fighting broke out today centering around the
9 Japanese cemetery and the airfield of Harbin. Our air
10 officer was shot. Harbin is becoming disorderly. Tak-
11 ing these circumstances into consideration, the Kwantung
12 Army wishes to accomplish the protection of our resi-
13 dents by dispatching a unit composed of not more than
14 two infantry battalions, in case hostilities are likely
15 to extend to the city of Harbin. Kindly give your ap-
16 proval in advance.'"

17 I now read exhibit 3422-P:

18 "Jan. 28th, 1932.
19 "From: Vice-Chief of General Staff.
20 "To : Commander of Kwantung Army.
21 "'Your telegram Kan-San 355 was received. In
22 view of the rampancy of armed bandits in North Man-
23 churia and for the purpose of reinforcing our forces
24 there, the Chief of General Staff approves the dispatch
25 of troops to Harbin as mentioned in your telegram.'"

TAKEDA

DIRECT

32,866

1 As to the circumstances mentioned in these
2 telegrams, I refer to testimonies of KATAKURA (Court
3 record pages 18,994 - 18,995) and KAWABE (Court record
4 pages 19,422 - 19,423), and KOISO (Court record pages
5 32,320 - 32,221) and wish to call to the attention of the
6 Tribunal that MINAMI was no longer the War Minister at
7 that time.

8 The prosecution may now cross-examine.

9 MR. WOOLWORTH: No cross-examination of this
10 witness.

11 MR. BROOKS: May the witness be excused on the
12 usual terms?

13 ACTING PRESIDENT: He is excused accordingly.

14 (Whereupon, the witness was ex-
15 cused.)

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KATAKURA

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1 MR. BROOKS: 23, Language Section.

2 Now the defense would like to call
3 KATAKURA, Tadashi as a witness.

4 ACTING PRESIDENT: "Wasn't this one of the
5 witnesses the prosecution isn't going to cross-examine?"

6 MR. BROOKS: I have some additional documents
7 I wish to present.

8 This witness has been previously sworn.

9 T A D A S H I K A T A K U R A , recalled as a
10 witness in behalf of the defense, having been
11 previously sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. BROOKS:

14 Q State your name and address.

15 A My name is KATAKURA, Tadashi. My present
16 address is No. 2658, Kami-meguro-gocho, Meguro-ku,
17 Tokyo.

18 ACTING PRESIDENT: I want to remind you,
19 witness, that you are still under oath.

20 MR. BROOKS: I ask that defense document
21 2047 be shown to the witness.

22 (Whereupon, a document was shown
23 to the witness.)

24 Q Is that your affidavit?

25 A Yes.

KATAKURA

DIRECT

32,868

1 Q Are the contents thereof true and correct?

2 A Yes, true and correct.

3 MR. BROOKS: I offer defense document 2047
4 in evidence.

5 ACTING PRESIDENT: Admitted on the usual
6 terms.

7 CLERK OF THE COURT: Defense document 2047
8 will receive exhibit No. 3430.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 3430 and received in evidence.)

12 MR. BROOKS: I shall read the exhibit,
13 starting from paragraph 2.

14 "2. I was attached to the Kwantung Army
15 headquarters from August, 1930, to August, 1932, and
16 connected specially with the handling of secret tele-
17 grams. The copies of telegrams attached hereto are
18 truly the same as those telegrams which were handled
19 by me at that time.

20 "3. Among the said copies of telegrams
21 attached hereto, the incoming ones at the Kwantung
22 Army headquarters addressed to the Commander HONJO
23 or the Chief of Staff MIYAKO were, first of all, handed
24 to me by the Code Section, and then submitted to the
25 said superior concerned, after my reading aloud to him

KATAKURA

DIRECT

32,869

the gist thereof. The outgoing telegrams from the
1 Commander or the Chief of Staff of the Kwantung Army
2 to the central army authorities were, first of all,
3 drafted by me under the order of the said superior
4 concerned. Upon his approval of my draft, I had it
5 translated into code by the Code Section, and then the
6 dispatch was made."

I ask that exhibits 3422-A to P be shown
7 to the witness. Those are defense documents 2048-A
8 to P.

11 ("Whereupon, documents were
12 handed to the witness.)

13 Q Are those the telegrams referred to in
14 paragraph 2 and 3 of your affidavit?

15 A (There was no interpreted response.)

16 Q You have carefully examined them and con-
17 sidered them as copies of the telegrams originally
18 handled by you, is that correct?

19 A These are the very documents which I men-
20 tion in my affidavit.

21 Q In paragraph 2 you mention the copies of
22 telegrams attached. These are those which you are
23 referring to there, is that correct?

24 A Yes.

25 MR. BROOKS: The prosecution may cross-examine.

KODAMA

DIRECT

32,870

1 MR. WOOLWORTH: No cross-examination of this
2 witness, if the Tribunal please.

3 MR. BROOKS: May the witness be excused on
4 the usual terms?

5 ACTING PRESIDENT: He is excused accord-
6 ingly.

7 ("Whereupon the witness was excused.)

8 MR. BROOKS: The defense requests that
9 KODAMA, Tomeo be called as the next witness.

10 MARSHAL OF THE COURT: Mr. President, the
11 witness KODAMA, Tomeo is in court. He has previously
12 testified before the Tribunal.

13 T O M E O K O D A M A , called as a witness on
14 behalf of the defense, testified as follows:

15 ACTING PRESIDENT: You are warned that you
16 are still under oath, Witness.

17 BY MR. BROOKS:

18 Q Mr. Witness, have you ever testified in this
19 court before?

20 A No, I have not.

21 MR. BROOKS: I didn't think he had, your
22 Honor.

23 .
24 ("Whereupon, the witness was duly sworn.)

25

DIRECT EXAMINATION

1 BY MR. BROOKS:

2 O State your name and address, please.

3 A My name is KODAMA, Tomeo. My address is
4 31 Kitazawa-machi, 2-chome, Setagaya-ku, Tokvo.

5 MR. BROOKS: I ask that defense document 1760
6 (revised) be shown to the witness.

7 ("Whereupon, a document was handed
8 to the witness.)

9 O Is that your affidavit?

10 A Yes.

11 O Are the contents true and correct?

12 A Yes.

13 MR. BROOKS: I offer defense document 1760
14 in evidence.

15 MR. WOOLWORTH: If the Tribunal please, the
16 prosecution objects to certain parts of this affi-
17 davit, beginning with the fifth line of paragraph 3
18 and extending to the end of that paragraph. Whether
19 it was the policy of General MINAMI or not as stated,
20 reference is made to exhibit 2022-A, which speaks for
21 itself.
22

23 I further object to paragraph 5 of the affi-
24 davit, as it is repetitious, a re-statement of matters
25 which are contained in regulations and laws which are

already in evidence.

I further object to that part of paragraph 6 beginning, in the sixth line, with the words "Commander HAYASHI." as stating a conclusion not within the testimonial knowledge of the witness.

I further object to the last two sentences of paragraph 9 on page 5, beginning with the words "Chief of General Staff." The order is the best evidence.

MR. BROOKS: As to that last remark, your Honor, of course you realize this is secondary evidence I am offering. The original is not available, as I have shown by previous evidence. That is why I am offering testimony by witnesses, to cover part of this material.

Now, as to paragraph 3, the comment there connects the testimony of this witness, what he is trying to say, tying in this testimony with exhibit 2022-A, and explains the statement on what is being talked about. That is why I refer to it, so that the Court will understand what the exhibit is about.

The matters referred to in paragraph 5 are briefly summarizing evidence of the general phase as to our contention about responsibility, and it is therefore calling attention to other evidence which is gone into in greater detail in the general phase,

KODAMA

DIRECT

32,873

1 bringing out certain points in order to make the
2 rest of the evidence relate to it and make sense.

3 As to paragraph 7, what Commander HAYASHI
4 judged, this witness was the Chief of Staff and he was
5 in a position to know the judgment of his commander
6 and to testify as to what he did and as to the reasons
7 therefor.

8 As to the last objection. I think I covered
9 that.

10 ACTING PRESIDENT: By a majority vote the
11 objection as to paragraphs 3 and 5 are sustained.
12 Otherwise the objection is overruled.

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KODAMA

DIRECT

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1 MR. BROOKS: Paragraph 3 starts with "In
2 the spring of 1931" and extends to the end of the
3 paragraph, is that right, your Honor, and all of para-
4 graph 5?

5 CLERK OF THE COURT: Defense document 1760
6 revised will receive exhibit No. 3431.

7 (Whereupon, the document above
8 referred to was marked defense exhibit No.
9 3431 and received in evidence.)

10 MR. BROOKS: I will not read the balance of
11 paragraph 3 because, by itself, it will not be of any
12 significance. But I shall read the exhibit starting
13 from paragraph 2, skipping paragraphs 3 and 5, and
14 will stop with paragraph 7, if the language section
15 please, for a brief question.

16 I read from paragraph 2:

17 "From December, 1930 to August, 1933 I was
18 the Chief of Staff of the Korean Army as Major-
19 General."

20 Skipping to paragraph 4:

21 "On the night of September 18, 1931, as soon
22 as the Korean Army received an urgent request for re-
23 inforcement from the Kwantung Army, HAYASHI, Commander
24 of Korean Army, organized a combined brigade under
25 Major-General KAMURA and ordered him to proceed to

KODAMA

DIRECT

32,875

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2048A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

KODAMA

DIRECT

32,875

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2048A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

KODAMA

DIRECT

32,875

1 the Korea-Manchurian border, thereafter reporting the
2 step taken to the Chief of General Staff and to the
3 Kwantung Army.

4 "6. On September 19, about noon, a tele-
5 graphic order was received from the Chief of General
6 Staff that the Korean Army unit should not cross the
7 border without Imperial sanction. Commander HAYASHI,
8 in conformity with this order, made the KAMURA Brig-
9 ade stop within the Korean border south of Shingishu.
10 The measure was at once cabled to the Commander of
11 the Kwantung Army by telegram Cho-San-Po No. 26. At
12 that time, the wireless service of the Korean Army
13 was in the test period, and it was out of order.
14 Except the above-mentioned communication, no news
15 was received from the General Staff through the State
16 Cable Service, and the Korean Army found itself al-
17 together isolated from the central authorities."

18 Language section, I go to Note 24. At this
19 time I request exhibit 3422A be shown to the witness.
20 That is defense document 2048A.

21 (Whereupon, a document was handed
22 to the witness.)

23 BY MR. BROOKS (Continued):

24 Q Now, are the contents of this copy of the
25 telegram marked A on the second page of the Japanese

KODAMA

DIRECT

32,876

original the same as the contents of the telegram of
1 the Korean Army referred to on page 3 in paragraph
2 6 of your affidavit?

3 A I will have to change my glasses. I can't
4 tell just yet.

5 Q All right.

6 A May I have the question?

7 Q In the part marked A, are the contents of
8 this copy of the telegram marked A on the second
9 page of the Japanese original the same as the con-
10 tents of the telegram of the Korean Army referred to
11 on page 3 in paragraph 6 of your affidavit? It may
12 be on the first page of that. I may have an error
13 here. That may be on the first page marked A.

14 A The telegrams are identical.

15 Q Oh, did you find it?

16 A Yes.

17 MR. BROOKS: And the telegrams are identi-
18 cal. I continue reading defense document 1760,
19 exhibit 3431 from paragraph 7 to the end:

20 "On September 21, about 10 a.m., another
21 telegram was received from the Kwantung Army urging
22 the Korean Army to send reinforcements, as not a
23 single soldier remained in Mukden, following a de-
24 spatch of the Second Division to Kirin. Commander

KODAMA

DIRECT

32,877

1 HAYASHI judged that the Kwantung Army, being so small
2 in number, might have been pressed into a desperate
3 situation, and that the lives and properties of
4 the Japanese residents might be at stake. He was
5 convinced that a reinforcement from Korea without a
6 moment's delay was absolutely necessary. Making up
7 his mind to carry out the crossing of the border on
8 his own responsibility, he ordered the KAMURA Com-
9 bined brigade to proceed to Mukden in the afternoon
10 of September 21.

11 *8. Although the act of Commander HAYASHI
12 without approval from his superior was based upon
13 his judgment of circumstances as mentioned above and
14 was ratified by Imperial sanction on September 22,
15 it is also a fact that he exceeded his authority.
16 Hence, both Commander HAYASHI and I, as his Chief of
17 Staff, submitted formal enquiries to the central
18 authorities whether or not we should resign (T.N. --
19 This enquiry is called 'Shintai-ukagai' in Japanese),
20 and expressed our penitence. A decision was later
21 made towards Commander HAYASHI and a written notice
22 was delivered to him. When Commander HAYASHI showed
23 it to me, I found it to be an Imperial reprimand is-
24 sued through the Chief of General Staff, containing
25 the words 'Warned for future action.' I, however,

KODAMA

DIRECT

32,878

received no punishment under any form.

"9. As the result of the Mukden Incident,
there were disturbances in Chientao district, which
is adjacent to North Korea. On or around September
24, 1931 a telegram was received from War Minister
MINAMI to the effect that no despatch of troops
should be made to the said district, but that the
peace and order be maintained by the consular police
previously stationed there. (The purport of this
telegram is the same as telegram Riku-Lan #20 of
September 24, 1931, from the War Minister to the
Commander of Korean Army). Towards the end of Oc-
tober, the central authorities took notice of the
situation which became too difficult for the police
alone to deal with. The Chief of General Staff is-
sued an order under Imperial Sanction and despatched
a unit to Kyokushigai in Chientao. After several
months the unit was withdrawn when peace and order
were restored.

"On the 7th day of April, 1947."

Referring back to Note 24, on the bottom of
page 4 in the English, the words "From the War
Minister to the Commander of the Korean Army" should
be the "Kwantung Army," and I ask that the language
section check that. I understand, in Japanese it is

KODAMA

DIRECT

32,879

"Kwantung Army," and here it has been put in "Korean

1 Army." That's in exhibit 3431. The first word on
2 the bottom of page 4 of the last line should read
3 "Kwantung Army" instead of "Korean Army."

4 I request that exhibit 3422H be shown to
5 the witness. This is defense document 2048H.

6 (Whereupon, a document was handed
7 to the witness.)

8 Q Now, are the contents of this copy of the
9 telegram marked H on the 9th page of the Japanese
10 original the same as the contents of the telegram
11 of the War Minister referred to in paragraph 9 of
12 your affidavit?

13 A They are the same telegrams.

14 MR. BROOKS: Prosecution may cross-examine.

15 MR. WOOLWORTH: If the Tribunal please.

16 ACTING PRESIDENT: Colonel Woolworth.

17 CROSS-EXAMINATION

18 BY MR. WOOLWORTH:

19 Q Witness, I refer you to exhibit 3422A and
20 ask that a copy be shown the witness.

21 (Whereupon, a document was handed
22 to the witness.)

23 Will you please tell the Tribunal what be-
24 came of the air force which is referred to in this
25

KODAMA

DIRECT

32,880

1 telegram?

2 A This air force did not go into Manchuria
3 directly.

4 Q Where did they go?

5 A When the air force arrived at Shingishu
6 there was inclement weather and also a breakdown in
7 aircraft; that the air force withdrew to Shingishu
8 and to other bases in the rear.

9 Q When did they advance to Manchuria?

10 A About two or three days later.

11 Q Was that without Imperial sanction also?

12 A At that time there was an Imperial Order
13 sanctioning it.

14 Q That happened after the 22nd of September?

15 A Yes.

16 MR. WOOLWORTH: I have no further questions.

17 MR. BROOKS: May the witness be excused?

18 ACTING PRESIDENT: He is excused accordingly.

19 We will now take a recess for fifteen minutes.

20 (Whereupon, at 1445, a recess was
21 taken until 1500, after which the proceed-
22 ings were resumed as follows:)

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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 ACTING PRESIDENT: The Supreme Commander, hav-
4 ing directed that Tuesday shall be a legal holiday,
5 being Armistice Day, this Court will not sit on Tuesday,
6 November 11.

7 Captain Kraft.

8 LANGUAGE ARBITER (Captain Kraft): If the
9 Tribunal please, we submit the following language correc-
10 tion, reference exhibit No. 3431, page 4 last line:
11 Delete "Korean Army", substitute "Kwantung Army."

12 ACTING PRESIDENT: Captain Brooks.

13 MR. BROOKS: I now offer defense document 2853,
14 a certificate of illness of the witness SHIDEHARA,
15 Kijuro.

16 ACTING PRESIDENT: Admitted on the usual terms.

17 CLFRK OF THE COURT: Defense document 2853
18 will receive exhibit No. 3432.

19 (Whereupon, the document above referred
20 to was marked defense exhibit No. 3432 and received
21 in evidence.)

22 MR. BROOKS: I will read exhibit 3432:

23 "Diagnosis.

24 "Name: Kijuro SHIDEHARA. Born: August 11th,
25 1872.

1 "Name of illness: Lumbago.

2 "Severe pain around hips, particularly painful
3 at times when sitting or lying down which makes it
4 difficult to walk.

5 "It is necessary for him to be confined in
6 bed and to keep warm and quiet for the time being and
7 to have treatment.

8 "It is certified that the above diagnosis is
9 given by me.

10 "Dated: November 7th, 1947.

11 "Dr. Hirotoshi H. SHIMOTO

12 "St. Lukes International Hospital.

13 "53 .kashicho, Kyobashiku, Tokyo."

14 The defense offer in evidence defense docu-
15 ment 1964, the affidavit of SHIDEHARA, Kijuro.

16 MR. COMYNS CARR: May it please the Tribunal,
17 the prosecution objects to this affidavit being
18 received without cross-examination and, in view of
19 the stage of the trial which has been reached and the
20 advanced age of the witness, suggests that it be desirable
21 that his cross-examination should be done on commission.
22 It would not be a very lengthy cross-examination, but
23 the matters are of some importance.

24 MR. BROOKS: If the Court please, I would like
25 to read the affidavit at this time and will agree to

1 the prosecution submitting any questions in interrogatories by way of cross-examination. I think we can get
2 together on the cross-examination being very brief.
3 They can submit them, put it in writing, and present
4 it to the Court at our next session. I believe we will
5 have time to do that over the intervening holiday.
6

7 I want to point out that this affidavit, on
8 page 3, defense document 1964, was taken on July 28,
9 1947. I believe that the rights of the prosecution
10 for cross-examination can be fully protected by such
11 interrogatories as they may care to file, and it would
12 save appointing a commission therefor because I would
13 be very agreeable to any cross-examination they may want
14 to make.

15 MR. CONYNS CARR: In the submission of the
16 prosecution, cross-examination by interrogatories is
17 extremely unsatisfactory and they would prefer that
18 the cross-examination should be oral. One can never
19 be sure what further questions it may become necessary
20 to put in view of the answers of the witness to those
21 put in the first instance.

22 With regard to reading the affidavit now, the
23 prosecution submits that that should not be done until
24 the cross-examination can be read with it.
25

 MR. BROOKS: On that latter point, your Honor,

1 I would like to have the affidavit read now because it
2 fits into the orderly procedure and presentation of
3 this case and makes clearer the understanding of the
4 documents that will follow and the ones that have just
5 preceded it. And I submit that it would be better, of
6 course, if we could have both of them at this time --
7 both the affidavit and the cross-examination -- but
8 since the latter is not possible that is no reason
9 for excluding the former.

10 ACTING PRESIDENT: A majority of the Court
11 believe that this testimony or the testimony of this
12 witness should be taken by commission. It is so
13 ordered.

14 MR. BROOKS: The affidavit will then not be
15 presented at this time, is that correct?

16 ACTING PRESIDENT: Not admitted at this time.

17 MR. BROOKS: If the Tribunal please, what will
18 be the date for scheduling this commission? I under-
19 stand that it is possible that this witness may under-
20 go an operation. If that is true, at his age there
21 might be danger of his not recovering and I think an
22 early date should be set if possible. Might I
23 suggest that we meet in Chambers with the prosecution
24 immediately following the adjournment of Court and pass
25 upon this if it is agreeable?

1 ACTING PRESIDENT: That is agreeable.

2 MR. BROOKS: The defense offers next in
3 evidence defense document No. 1784, an affidavit of
4 Patrick J. Hurley, Secretary of War for the United
5 States in 1931.

6 ACTING PRESIDENT: Admitted on the usual terms.

7 CLERK OF THE COURT: Defense document 1784
8 will receive exhibit No. 3433.

9 (Whereupon, the document above
10 referred to was marked defense exhibit
11 No. 3433 and received in evidence.)

12 MR. BROOKS: I shall read exhibit 3433:
13 "THE UNITED STATES OF AMERICA, et al.

14 -AG.1MST-

15 "ARAKI, S.DAO, et al.

16 "UNITED STATES OF AMERICA

ss.

17 "DISTRICT OF COLUMBIA

18 "I, Patrick J. Hurley, being first duly sworn,
19 defense and say:

20 "I was Secretary of War for the United States
21 in 1931 and was in the Far East at the time of the
22 Manchurian Incident.

23 "I have read the statement made by General
24 MIAMI commencing on page 19,884 of the Proceedings for
25 14 April, 1947, starting with line 23 as follows:

1 "I think it was around the middle of October,
2 1931 when the United States Secretary of War, Mr. Patrick
3 Hurley, suddenly made a call on me. Mr. Hurley was
4 Secretary of War in the Hoover Cabinet. His mission
5 was to survey and investigate conditions in the
6 Philippines and it was on his return home to the United
7 States that the Manchurian Incident broke out. On
8 account of that incident he paid me this sudden call.

9 At that time Mr. Hurley said that he was to
10 return to the United States immediately after comple-
11 ting his investigation of conditions in the Philippines
12 but that in the light of the new situation he was
13 exceedingly desirous of meeting me, the War Minister,
14 directly to ask me about the incident. At that time
15 Mr. Hurley addressed me three simple and direct ques-
16 tions:

17 "First question: How did the Lukuo Chiao" --
18 that should be spelled L-i-u- hyphen t apostrophe i-a-u
19 hyphen k-o-u.-- "Incident break out?

20 "The second question: How far were the
21 hostilities going to continue?

22 "And the third point was: Is Japan going to
23 occupy Manchuria? Is Manchuria going to be made a
24 protectorate of Japan or is Manchuria going to become
25 an independent state? That was the third question.

1 "With regard to the first question I replied
2 that the L-i-u hyphen t apostrophe i-a-u hyphen k-o-u
3 Incident occurred as a result of the destructive action
4 by regular troops of the Chinese army, and that the
5 Japanese had taken action in exercise of a legitimate
6 right of self-defense for the protection of their
7 interests.

8 "In reply to the sec nd question I said that
9 hostilities had already begun, but that it was the
10 policy of the Japanese Government to do whatever was
11 in its power to bring about a local settlement of the
12 incident, and that it was going to pursue a policy of
13 nonextension and nonaggravation. However, that the
14 Japanese Government was unable to predict how far the
15 hostilities might be extended, it all depending on
16 the actions that might be taken on the Chinese side.
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1 " With regard to the third question I said
2 that Japan had never at any time conceived of the idea
3 of taking Manchuria as her territory or to make Man-
4 churia a protectorate of Japan, nor even to assist
5 in the independence of that country. And finally I
6 said that this was the policy of the Government of
7 Japan and that as a Cabinet Minister I supported this
8 policy.
9

10 " And, therefore, with regard to the question
11 that was asked of me awhile ago I must say that such
12 a thing had never at any time occurred in my mind at
13 that time. Mr. Hurley well understood my explanation
14 of the situation and told me that it was worth-while
15 seeing me because he had carried out the purpose of
16 his call on me, and gave me his photograph as a souvenir.

17 " I feel that what I have just related to
18 you will be of some assistance to you with regard to
19 your question because the remarks that I made to Mr.
20 Hurley were straightforward remarks which were con-
21 sistent with the situation as it then existed.

22 " Q When did this conversation with Mr. Hur-
23 ley take place?

24 " A I do not remember the date, but I think
25 it was in the middle of October.'

"I recall meeting General MINAMI around the

1 middle of October 1931 and addressing him on the
2 points quoted above, and receiving in reply substan-
3 tially the aforesaid answers.

4 "General MINAMI advised me that the policy
5 of the WAKATSUKI Cabinet was to remain within the
6 principles of the Nine Power Pact, to limit the
7 effect of the Mukden Incident, and to maintain friendly
8 relations with the League of Nations.

9 "I also remember having presented General
10 MINAMI with one of my photographs and receiving one
11 from him.

12 "Signed: Patrick J. Hurley.

13 "Subscribed and sworn to before me at Wash-
14 ington, District of Columbia, this 7th day of June,
15 1947.

16 "Maurice Love, Notary Public, District of
17 Columbia."

18 Now, I request that KAWABE, Torashiro be
19 called as the next witness.

20 MARSHAL OF THE COURT: Mr. President, the
21 witness KAWABE, Torashiro is in court. He has prev-
22 iously testified before this Tribunal.
23
24
25

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T O R A S H I R O K A W A B E , recalled as a witness on behalf of the defense, having been previously sworn, testified through Japanese interpreters as follows:

ACTING PRESIDENT: You are reminded that you are still under oath.

DIRECT EXAMINATION

BY MR. BROOKS:

Q State your name and address, please.

A My name is KAWABE, Torashiro; my address, 460 Azo-o-machi, Jindai-mura, Tokyo Metropolis.

MR. BROOKS: I ask that defense document 2588 be shown to the witness.

(Whereupon, a document was handed to the witness.)

Q Is it your affidavit?

A Yes.

Q Are the contents thereof true and correct?

A Yes.

MR. BROOKS: I offer defense document 2588 in evidence.

MR. WOOLWORTH: If the Tribunal please, the prosecution desires to object to paragraph 5 of this affidavit, appearing at pages 5 and 6, on the ground that it is argumentative, not proper. And, further,

1 to that part of paragraph 2 on page 2 beginning
2 "After his arrival--" and ending at the end of the para-
3 graph. The instructions given are the best evidence.

4 MR. BROOKS: If your Honor please, this is
5 secondary evidence as to these instructions and is the
6 only evidence available of the instructions, what they
7 are, is what this witness recalls of them because of
8 the functions that he performed with the General Staff
9 at that time. And because of his position I think he
10 is capable of testifying as a matter of fact as to the
11 things that happened which have some relation to the
12 testimony of MINAMI, as will be pointed out later.

13 The prosecution can attack this by way of cross-
14 examination because we are putting it in to confirm
15 certain matters, and I think cross-examination is the
16 proper way to meet this rather than by objection. We
17 admit that it will not have as much probative value
18 as the original instructions if they could be pro-
19 duced, but we do assert that it has some probative
20 value and should be received for whatever probative
21 value it may have, depending upon cross-examination
22 of the prosecution.

23 That is all I have, your Honor.

24 ACTING PRESIDENT: By a majority, the objec-
25 tion is sustained as to paragraph 5, and overruled as

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to paragraph 2.

Omitting paragraph 5, the document will be received in evidence.

CLERK OF THE COURT: Defense document 2588 will receive exhibit No. 3434.

(Whereupon, the document above referred to was marked defense exhibit No. 3434, and received in evidence.)

MR. BROOKS: I shall read exhibit 3434 from paragraph 1 to the end of paragraph 4.

"I, K.WABE, Torashiro, was the senior member of the Second Section (in charge of operations) of the General Staff, Tokyo, from April 1929 to January 1932.

"Referring to the series of telegram copies contained in defense document No. 2048 A-P, I affirm that B, D, F, L, M and N are correct copies of those telegrams which were drafted by my section (mostly by myself) and despatched to the Commander of Kwantung Army or his Chief of Staff under the name of the Chief of General Staff or the Vice-Chief of General Staff. The telegram embodied in E was received by the General Staff from the Kwantung army, and I remember that I read it at that time. C,G,H,I,J and K are copies of telegrams despatched from the War Ministry

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1 to the Kwantung army. Although they dealt with mat-
2 ters not under the jurisdiction of the General Staff,
3 I was acquainted with the fact that these telegrams
4 were despatched at that time because of the business
5 contact between the War Ministry and the General Staff."

6 I want to ask a question here, Language Sec-
7 tion.

8 I request that exhibit 3422 A to P, defense
9 document 2048 A to P, be shown to the witness.

10 (Whereupon, documents were handed
11 to the witness.)

12 Q Are these true copies of the telegrams re-
13 ferred to in paragraph 1 of your affidavit?

14 A They are.
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1 MR. BROOKS: I continue reading exhibit
2 3434, from paragraph 2, page 2, to the end of
3 paragraph 4:

4 "I was a staff officer of the Kwantung Army
5 from August 1934 to March 1936, and the Chief of the
6 Second Section (in charge of intelligence) from
7 August 1935, within that period. Lieutenant-Colonel
8 TANAKA, Ryukichi, was my subordinate as a staff
9 officer attached to the Second Section.

10 "In December 1934" -- there is an error
11 there. It should be "'34" instead of "'35."

12 "In December 1934 General MINAMI arrived
13 at his post as Commander of Kwantung Army and Ambas-
14 sador plenipotentiary to Manchukuo. After his
15 arrival the General gave officers and men frequent
16 instructions, the majority of which were drafted by
17 me as a matter of duty. These instructions were made
18 naturally to serve different purposes of respective
19 occasions, but there were two ideas consistently
20 running through all, namely, (1) respect for and
21 assistance to independent Manchukuo, and (2) self-
22 reflection and elimination of the vain feeling of
23 Japanese superiority. I remember that whenever
24 these two were contained in the draft of an instruc-
25 tion, I could obtain the signature of the Commander

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1 without hitch. Not only such was the sentiment of
2 General MINAMI, but all of us working under him be-
3 lieved firmly in the fact that Manchukuo would secure
4 her international status as a perfect independent
5 country.

6 "3. The Kwantung Army at that time held
7 the maintenance of peace and order within Manchukuo
8 as the primary duty under the Japan-Manchukuo proto-
9 col. The troops were put in dispersed positions to
10 the extreme, suffering the inadequacy from the mili-
11 tary point of view for the defense against dangers
12 from outside of Manchukuo. Hence, the disposition of
13 the army was even more inadequate for any offensive
14 towards U. S. S. R. or China.

15 "In May 1935 War Minister HAYASHI came to
16 Manchuria to inspect the condition of the army there.
17 Incidentally, about that time, the so-called UMEZU-Ho
18 Yin-Chin Agreement was concluded in North China.
19 Connecting with these events various rumors were
20 reported in foreign newspapers, but I regret to say
21 that such reports were full of falsehood. For in-
22 stance, I point out the following items in exhibit
23 2206-A.

24 "(a) The article to the effect that War
25 Minister HAYASHI reiterated in Mukden that the North

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1 China problem was to be handled by the Kwantung
2 Army (New York Times, June 6, 1935) is entirely a
3 fabrication. In view of distinct systems of command
4 and duties of the Kwantung Army and the North China
5 Army respectively, War Minister HAYASHI would abso-
6 lutely never have made such a statement.

7 "(b) The articles to the effect that
8 General MINAMI issued secret instructions to the
9 Kwantung Army to hold themselves ready to pour into
10 China (Tribune, June 9, 1935); Sacramento Tribune,
11 June 8, 1935; Oakland Tribune, June 9, 1935) are
12 also false. Such instructions could not be given
13 without a directive from the Central Supreme Com-
14 mand, a directive which, if any, would surely have
15 been brought to my notice as a matter of function.

16 "(c) The article to the effect that the
17 Kwantung Army moved 5,000 troops from Mukden to
18 Shanhaikwan (New York Times, June 13, 1935) is also
19 false. The Kwantung Army was in such a condition at
20 that time as it was inconceivable to concentrate so
21 many troops at one spot.

22 "(d) The article to the effect that the
23 army requested Prince Toh of Inner Mongolia to move
24 his capital to a place 180 miles to the north of
25 Pailingmiao (New York Herald Tribune, June 2, 1935)

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2 Army (New York Times, June 6, 1935) is entirely a
3 fabrication. In view of distinct systems of command
4 and duties of the Kwantung Army and the North China
5 Army respectively, War Minister HAYASHI would abso-
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8 General MINAMI issued secret instructions to the
9 Kwantung Army to hold themselves ready to pour into
10 China (Tribune, June 9, 1935); Sacramento Tribune,
11 June 8, 1935; Oakland Tribune, June 9, 1935) are
12 also false. Such instructions could not be given
13 without a directive from the Central Supreme Com-
14 mand, a directive which, if any, would surely have
15 been brought to my notice as a matter of function.

16 "(c) The article to the effect that the
17 Kwantung Army moved 5,000 troops from Mukden to
18 Shantung (New York Times, June 13, 1935) is also
19 false. The Kwantung Army was in such a condition at
20 that time as it was inconceivable to concentrate so
21 many troops at one spot.

22 "(d) The article to the effect that the
23 army requested Prince Toh of Inner Mongolia to move
24 his capital to a place 180 miles to the north of
25 Pailingmiao (New York Herald Tribune, June 2, 1935)

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1 is also false.

2 "(e) Besides the above-mentioned items and
3 with regard to matters not directly connected with
4 the Kwantung Army, I find many canards which are
5 totally beyond my experience and knowledge of the
6 Japanese Army in general.

7 "In addition to the above comments on
8 reports of foreign sources, I must say in conclusion
9 that during the time when I was a staff officer of the
10 Kwantung Army there was no such fact as the Kwantung
11 Army issued anything like an ultimatum to China or
12 brought a similar pressure to bear upon her.

13 "4. Referring to the testimony of Mr.
14 TANAKA, Ryukichi, made at this Tribunal on July 8
15 last year, to the effect that during the tenure of
16 office of General MINAMI as Commander of Kwantung
17 Army two brigades were sent to the demilitarized zone,
18 south of the Great Wall (C. R. pp. 2,118, 2,119), I
19 state definitely that there was no such fact. As to
20 his testimony to the effect that two battalions of
21 cavalry were sent to Chahar (C. R. p. 2,118), I have
22 no recollection whatever of such a case. I can say
23 that I have a memory, amounting to conviction, on the
24 troop disposition which incapacitated the Kwantung
25 Army at that time to send expeditiously any such unit

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of cavalry out of the border into the Chahar Province.

"The only instance, which I remember as the case of a small unit of the Kwantung Army moving into the demilitarized zone of North China, occurred in the beginning of summer 1935. A small unit (about one or two companies) of the 7th Division, which was operating against a strong bandit force near the frontier of Jehol, crossed into the demilitarized zone in pursuit, but withdrew immediately within the border."

11 You may cross-examine.

12 ACTING PRESIDENT: Colonel Woolworth.

13 MR. WOOLWORTH: If the Tribunal please:

CROSS-EXAMINATION

15 | BY MR. WOOLWORTH:

16 Q How many troops were in the Kwantung Army
17 during the year 1935?

A In 1935 the main strength of the Kwantung Army was composed of two divisions: one mixed brigade and one mechanized brigade.

21 Q And how many troops did that involve?

Thinking it over now, I think that the total strength amounted to somewhere around 30,000, but I cannot give you the exact figures.

Q Who was in command of the mixed brigade?

1 A I recall it was Lieutenant-General KAWA-
2 GISHI.

3 Q Was his first name Bunzaburo?

4 A Yes, Bunzaburo.

5 Q Do you recall the fact that in May of 1935
6 he moved a part of his brigade, consisting of one
7 regiment of infantry and one company of mountain
8 artillery, beyond the Great Wall?

9 A May I ask you once again with respect to
10 the date? Did you say May, 1935?

11 Q May, 1935.

12 A I don't recall it, and I don't believe that
13 such a thing happened.

14 Q Weren't you in a position to know what was
15 going on with this mixed brigade?

16 A Yes, that is why I told you I
17 believe they did not do any such thing.
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1 Q You were aware, also, that in the early
2 part of June, 1935, that fixed brigade was mobilized
3 at the Great Wall?

4 THE MONITOR: Colonel Woolworth, do you mean
5 mobilized to initiate some action, or to concentrate?

6 MR. WOOLWORTH: I mean to concentrate.

7 THE MONITOR: Thank you, sir. No corrections.

8 A It is not in my recollection.

9 Q Do you know of a place called Kupeikou?

10 A Yes.

11 Q And you say that that brigade was not mobi-
12 lized at Kupeikou in June, 1935?

13 A I do not recall for sure.

14 Q When were they mobilized there if they were
15 not mobilized in June?

16 A What I am trying to tell you is not whether
17 I recall whether they were mobilized in May or in June,
18 but the fact that I don't recall at all that this
19 brigade was ever mobilized.

20 THE MONITOR: By the order of the Kwantung
21 Army.

22 Q Were they ever concentrated there?

23 A I don't remember.

24 Q Are you acquainted with General KAWAGUCHI,
25 Bunzaburo?

A Yes, I know him.

Q Do you consider him honest?

A Yes, I do.

Q If he stated that his brigade, his mixed brigade, was concentrated at Kupeikou in June, 1935, on the orders of the Kwantung Army, would you believe him?

R. BROOKS: I object to that question as immaterial and irrelevant. It is a matter for the Court.

ACTING PRESIDENT: Objection overruled.

A If you give me convincing proof that such orders were given, I will believe it; but at the present moment I do not recall such orders ever having been issued at all.

Q You state that the statement contained in the New York Times' article of June 6 in regard to the fact that Minister HAYASHI stated that the North China problem was to be handled by the Kwantung Army is entirely a fabrication. I ask you, if you substituted the word "North China Army" for "Kwantung Army," would it still be a fabrication?

A I am sorry, I could not get your question. I feel there must have been some mistake in the interpretation.

1 THE MONITOR: English court reporter, will
2 you read the question?

3 (Whereupon, the last question was
4 read by the official court reporter.)

5 THE MONITOR: Japanese court reporter.

6 (Whereupon, the last question was
7 read by the Japanese court reporter.)

8 THE WITNESS: I feel that the question that
9 the prosecutor directed to me is contrary to my own
10 statement in my affidavit.

11 MR. WOOLWORTH: I ask that the witness be
12 directed to answer the question.

13 MR. BROOKS: If the Court please, I ask that
14 the language arbiter check that question. I think it
15 has been interpreted exactly opposite to what the
16 prosecutor asked.

17 ACTING PRESIDENT: I suggest that you ask
18 another question.

19 MR. WOOLWORTH: Yes.

20 Q I ask the witness to turn to the article in
21 the New York Times of June 6 which reported War Minis-
22 ter HAYASHI as stating that the North China problem
23 was to be handled by the Kwantung Army, if that would
24 be correct if you would substitute "North China Army"
25 for the words "Kwantung Army"; the statement in the

1 paper would then be correct?

2 A Well, that would be my own opinion; but in
3 my opinion even if you substituted the word "North
4 China" for "Kwantung" Army, even then it would not
5 be right.

6 Q You have heard of instructions being given
7 by Japanese army commanders, have you not, without
8 a directive from the central supreme command?

9 A No, I have never heard of that.

10 Q Did you know that the Korean Army was moved
11 into Manchuria without orders from the supreme command?

12 A That I knew.

13 Q And when you stated that the articles to
14 the effect that General MINAMI issued instructions to
15 the Kwantung Army were false because such instructions
16 could not be given without a directive from the central
17 supreme command, you were mistaken, were you not?

18 MR. BROOKS: I object to that question as
19 misstating the wording and intent of the witness'
20 statement as appears on the bottom of page 3 of exhib-
21 it 3434.

22 ACTING PRESIDENT: Objection overruled.

23 A I feel that what I said -- I feel that there
24 was no mistake in what I said.

25 Q It is true, however, that there have been

1 cases of troops being moved without authority of the
2 central high command?

3 A The measure taken by the Commander of the
4 Korean Army at the time of the sudden outbreak of the
5 Manchurian Incident was extraordinary in the extreme,
6 and later the Commander of the Korean Army took further
7 measures while continuing negotiations with the central
8 authorities, and I think you can call this an exception
9 among exceptions.

10 Q There are exceptions to the rule, then.

11 Now, General MINAMI was familiar with the
12 number of troops in the Kwantung Army, was he not?

13 A I believe he was fully aware of that; at least
14 with the general figures and the general disposition
15 of the troops.

16 Q If he stated, then, that there were 60,000
17 troops in the Kwantung Army between 1934 and 1936,
18 you would believe his statement, would you?

19 A Yes, I would.

20 Q And if you read his statement that there were
21 60,000 troops in Manchuria during the time you served
22 on his staff, you would admit that you were mistaken
23 when you said 30,000, would you not?

24 A There that point needs clarification. When
25 you asked me your question in regard to the numerical

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strength of the Kwantung Army, I told you of the number of divisions and other units of the Kwantung Army and the approximate numerical strength such as a number of divisions would represent, speaking from my memory at the present time.

THE MONITOR: Divisions and other units.

A. (Continuing) But besides the units, types of units, which I mentioned, there were technical units, communication units, railway guards, hospital units -- although the number of hospitals, of course, was limited -- and many other special units; and if you count these, it is quite true that the total number would come to more than 30,000.

ACTING PRESIDENT: We will adjourn until nine-thirty on Wednesday morning.

(Whereupon, at 1600, an adjournment was taken until Wednesday, 12 November 1947, at 0930.)

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KAWABE

CROSS

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1 of divisions and other units of the Kwantung Army
2 and the approximate numerical strength such as a number
3 of divisions would represent, speaking from my memory
4 at the present time.

5 THE MONITOR: Divisions and other units.

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7 of units, which I mentioned, there were technical units,
8 communication units, railway guards, hospital units --
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10 limited -- and many other special units; and if you
11 count these, it is quite true that the total number
12 would come to more than 30,000.

14 ACTING PRESIDENT: We will adjourn until
15 nine-thirty on Wednesday morning.

16 (Whereupon, at 1600, an adjournment
17 was taken until Wednesday, 12 November 1947,
18 at 0930.)

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KAWABE

CROSS

32,905

strength of the Kwantung Army, I told you of the number
1 of divisions and other units of the Kwantung Army
2 and the approximate numerical strength such as a number
3 of divisions would represent, speaking from my memory
4 at the present time.

5 THE MONITOR: Divisions and other units.

6 A (Continuing) But besides the units, types
7 of units, which I mentioned, there were technical units,
8 communication units, railway guards, hospital units --
9 although the number of hospitals, of course, was
10 limited -- and many other special units; and if you
11 count these, it is quite true that the total number
12 would come to more than 30,000.

14 ACTING PRESIDENT: We will adjourn until
15 nine-thirty on Wednesday morning.

16 (Whereupon, at 1600, an adjournment
17 was taken until Wednesday, 12 November 1947,
18 at 0930.)

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